

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35012
Docket No. SG-34207
00-3-97-3-768**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Brotherhood or Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Louisville and Nashville
(Railroad Company)**

STATEMENT OF CLAIM:

“Claims on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville & Nashville Railroad:

- A. Claim on behalf of L. E. Davis for re-establishment of Signal Gang 7C17 and for payment of 22 hours at the straight time rate and \$457.25 in travel expenses, account Carrier violated the current Signalmen’s Agreement, particularly Agreement No. 15-60-95, when it abolished Signal Gang 7C17 on July 25, 1995 [sic]. Carrier’s File No. 15(96-345). General Chairman’s File No. 96-215-07. BRS File Case No. 10288-L&N.**
- B. Claim on behalf of T. D. Fraley for re-establishment of Signal Gang 7C17 and for payment of 11 hours at the straight time rate and \$249.55 in travel expenses, account Carrier violated the current Signalmen’s Agreement, particularly Agreement No. 15-60-95, when it abolished Signal Gang 7C17 on July 25, 1995 [sic]. Carrier’s File No. 15(96-352). General Chairman’s File No. 96-215-08. BRS File Case No. 10289-L&N.**
- C. Claim on behalf of D. A. Witt for re-establishment of Signal Gang 7C17 and for payment of 21 hours at the straight time rate and \$393.70 in travel expenses, account Carrier violated the current Signalmen’s Agreement, particularly Agreement No. 15-60-95, when it abolished Signal Gang 7C17 on July 25, 1995 [sic].**

Carrier's File No. 15(96-322). General Chairman's File No. 96-215-05. BRS File Case No. 10291-L&N.

- D. Claim on behalf of D. A. Witt for re-establishment of Signal Gang 7C17 and for payment of 13 hours at the straight time rate and \$238.70 in travel expenses, account Carrier violated the current Signalmen's Agreement, particularly Agreement No. 15-60-95, when it abolished Signal Gang 7C17 on July 25, 1995 [sic]. Carrier's File No. 15(96-340). General Chairman's File No. 96-215-06. BRS File Case No. 10290-L&N.
- E. Claim on behalf of T. D. Fraley L. E. Davis for re-establishment of Signal Gang 7C17 and for payment of 22.5 hours each at the straight time rate and \$438.65 each in travel expenses, account Carrier violated the current Signalmen's Agreement, particularly Agreement No. 15-60-95, when it abolished Signal Gang 7C17 on July 25, 1995 [sic]. Carrier's File No. 15(96-321). General Chairman's File No. 96-215-04. BRS File Case No. 10292-L&N."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

CSXT Labor Agreement 15-60-95 effective July 25, 1995 allowed L&N System Signal Construction Gangs to work on specific projects on the former C&EI portion of the Carrier's system running between Evansville, Indiana, and Chicago, Illinois,

without a reduction in L&N Signal Construction Gangs. Two L&N System Signal Construction Gangs were established to perform this function.

Side Letter No. 4 to that Agreement provides:

“This refers to CSXT Labor Agreement No. 15-60-95, which was reached today. It was agreed that it is not the intent of this agreement to eliminate the present L&N forces to establish the two new L&N Gangs established to perform work on the former C&EI. In the event the Carrier is required to reduce forces on the L&N prior to the completion of this project due to operational requirements the parties will meet to discuss the matter.

If the parties are unable to reach an agreement, the Carrier may, nevertheless, proceed to reduce forces on the L&N and the employees may progress the dispute as a claim or grievance under the agreement, and in such proceedings it will be the burden of the Carrier to prove that it was justified in the actions taken.”

On July 25, 1996, the Carrier abolished District Signal Gang 7C17 headquartered at Rivana, Kentucky. The gang members then exercised their seniority to other positions. These claims followed after the parties met and were unable to resolve the matter.

District Signal Gang 7C17 was abolished one year after the parties agreed that the Carrier could establish the two System Signal Constructions Gangs under CSXT Labor Agreement 15-60-95. The record establishes that Signal Gang 7C17 was abolished because of budgetary constraints. Given the passage of time after establishment of the two gangs on the former C&EI and the abolishment of District Signal Gang 7C17 and the reasons articulated by the Carrier for its actions, there is insufficient evidence to find that the Carrier “eliminate[d] the present L&N forces to establish the two new L&N Gangs established to perform work on the former C&EI.” The Carrier met its burden of proof under the side letter. See Third Division Award 33849 (“There is no indication that anyone affected by the force reduction was forced to either of the two L&N gangs established to work on the former C&EI.”)

The claims will be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of October, 2000.