

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 36968  
Docket No. SG-36205  
04-3-00-3-414**

The Third Division consisted of the regular members and in addition Referee Dana Edward Eischen when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(CSX Transportation Company (former Baltimore &  
( Ohio Railroad Company)

**STATEMENT OF CLAIM:**

**"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (B&O):**

**Claim on behalf of M. O. Rowe, B. M. Baird, Jr., G. L. Hargus, D. P. Morgan, R. E. Prevo, M. P. English, A. Herevia, M. D. Palmer, and S. C. DiTeodoro, for payment of eighty hours each at the straight time rate, and eighty hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rules 10, 11, and 14, and Agreement No. 15-18-94, when on February 17, 18, 19, 20, 21, 22, 23, and 24, 1999, Carrier improperly changed the Claimants' work schedule and starting time. Carrier File No. 15 (99-127). BRS File Case No. 11384-B&O."**

**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.

The instant claim did not arise in a vacuum but rather in the factual context of the joint interlocking project at Fostoria, Ohio, as described more fully in companion Award 36967. In this claim, the former B&O employees claim a flat-out violation of Rules 11 when they were temporarily reassigned from their regular 7:00 A.M. - 5:00 P.M. day shift to work a night shift scheduled from 7:00 P.M. to 7:00 A.M. It is not disputed that the Claimants, who were assigned to System Signal Gang 7XF1, with assigned hours from 7:00 A.M. to 5:00 P.M. daily, were reassigned effective February 17, 1999, from daylight hours to the night shift hours; they were paid ten hours at the overtime rate for February 17, ten hours at the straight time rate for February 18 through 23, and ten hours at the overtime rate for February 24, 1999. Given the fact that this was a large complex two-shift project jointly staffed in accordance the requirements of Addendum 10 and that the Claimants appear to have been paid all overtime and premium pay to which they were contractually entitled, we can find no violation herein of RULE 10 – ABSORBING OVERTIME, RULE 11 – STARTING TIME, RULE 14 or ARTICLE III G of CSXT Labor Agreement No. 15-18-94 (WORK SCHEDULE).

**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 21st day of April 2004.

Labor Members Dissent to  
Award 36968  
Docket No. SG – 36205

It would appear from the decision of the Board that it works in a vacuum.

The Claimants in this case were all members of the B&O System Signal Construction Gang (SSCG). The record indicated that the B&O employees work daylight hours / first shift only. There has never been a second shift. All SSCG members start their workday between 6:00 & 8:00 AM. and work a ten (10) hour day.

When CSXT first began the "double track project" in Fostoria, Ohio, it hired 200 additional Signal employees. The Carrier knew in advance that this project was going to be a part of the whole "double track" project. The violation occurred when the Carrier created a second 12-hour shift that began at 7:00 P.M. to 7:00 A.M. and only lasted for eight days. It is the Organization's position that the Agreement along with the findings of this Award does not support Carrier's actions.

As noted the Board made reference to Third Division Award 36967 (C&O). This case involved the B&O portion of the railroad and has nothing to do with that dispute since it is a completely different agreement.

Based on the foregoing the Organization strongly dissents.

C.A. McGraw,  
Labor Member - NRAB