

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37736
Docket No. CL-37819
06-3-03-3-231

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(CSX Transportation, Inc. (former Seaboard
(Coast Line Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12987)
that:

- (1) The Carrier violated the Agreement, specifically Rule 1, and the Customer Service Center Agreement on April 21, 2002, when it allowed Manager C. D. Harris, located at Jacksonville, Florida, to interchange railcars from the BS Railroad at Ensley, Alabama. This was allowed in lieu of allowing this work to be performed by the Clerical employees in the Customer Service Center at Jacksonville, Florida.
- (2) Carrier shall now be required to compensate the Senior Available Employee, S. S. Solomons, ID. No. 207929, for eight (8) hours at the rate of \$145.09, at time and one-half of the applicable rate of \$217.64, for the above violation.”

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.

This is not a case of first impression. Numerous cases of the Board have dealt with the same or similar issue over an extended period of time. The Board's holding on this issue is set forth at length in Third Division Award 37227, and, more recently in Third Division Award 37562. In those Awards, as here, the Board finds that the Organization has, in fact, met the three tests established by Referee Benn in Award 37227. Accordingly, the Board holds, as it did in Award 37562, as follows:

“... The Board concurs with the Board's finding in Third Division Award 37345 that Third Division Award 37227, which followed the reasoning set forth in Public Law Board No. 5782, Awards 1 through 5, is dispositive in this and similar cases. Moreover, we see no reason to diverge from the pattern established in those Awards, i.e., unless the Organization can show that the time spent at the disputed task was other than de minimus – which it has not in this case – the established remedy is \$15.00 per incident.”

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 23rd day of February 2006.