

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 39150  
Docket No. CL-38263  
08-3-04-3-274

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  
( Coastline Railroad)

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Brotherhood (GL-13045) that:

(a) The Carrier violated the Rules Agreement effective June 1, 1999, particularly Rules 30, 64 and other Rules, when on several dates Carrier held Claimant off his regularly assigned position in order to be available and/or work a Tower Operator Position at 16<sup>th</sup> St. This was in direct violation of the Rules Agreement, due to the fact this was not an emergency. The dates, his assigned position and the position diverted to are as follows:

<u>DATE</u>	<u>ASSIGNED</u>	<u>POSITION</u>	<u>DIVERTED</u>
10/1/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/2/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/3/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/6/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/7/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/8/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/9/02	Pos 202 Opr. 16 <sup>th</sup> St.	4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/10/02	Pos 202 Opr. 16 <sup>th</sup> St.	4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/11/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/16/02	Pos 202 Opr. 16 <sup>th</sup> St.	4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/17/02	Pos 202 Opr. 16 <sup>th</sup> St.	4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/18/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/23/02	Pos 202 Opr. 16 <sup>th</sup> St.	4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/24/02	Pos 202 Opr. 16 <sup>th</sup> St.	4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/25/02	Pos 240 Janitor Barr Yd	3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
10/30/02	Pos 202 Opr. 16 <sup>th</sup> St.	4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm

10/31/02	Pos 202 Opr. 16 <sup>th</sup> St. 4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
11/1/02	Pos 240 Janitor Barr Yd 3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
11/6/02	Pos 202 Opr. 16 <sup>th</sup> St. 4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
11/7/02	Pos 202 Opr. 16 <sup>th</sup> St. 4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
11/8/02	Pos 240 Janitor Barr Yd 3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
11/13/02	Pos 202 Opr. 16 <sup>th</sup> St. 4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
11/14/02	Pos 202 Opr. 16 <sup>th</sup> St. 4p-12m	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm
11/15/02	Pos 240 Janitor Barr Yd 3p-11p	Pos 102 Opr. 16 <sup>th</sup> St. 8am-4pm

(b) Claimant P. Castelline shall now be made whole for the above violations by reviewing Claimant's wages for the above dates and compensating Mr. Castelline a punitive rate of pay for any time spent working on a position outside his regularly assigned hours, if not already compensated and in addition, eight (8) hours pay at the pro rata rate for all days he was unable to perform service on his own assignment account. Carrier diverted him from his assignment.

(c) This claim is being presented in accordance with Rule 45 and should be allowed."

#### 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 a companion case to Third Division Award 39151, with the exception of the location of the positions at issue and the number of days the Claimant was diverted from his regular position. For the reasons set forth at length in that Award, we find that the present claim must be sustained to the same extent provided in Award 39151.

**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 7th day of July 2008.**