

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 39665
Docket No. SG-40498
09-3-NRAB-00003-080346**

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

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

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (formerly Louisville & Nashville):

Claim on behalf of J. E. Abrams, to be awarded the Signal Foreman position advertised in bulletin number LNSY-0261 and for differential payment between his current rate of pay and a Signal Foreman’s rate of pay and his Signal Foreman’s Seniority date established on December 11, 2006, continuing until this dispute is resolved and Carrier should also be required to advertise the position held by System Signal Construction Safety Coordinator Newman on System Signal Gang 7X40, account Carrier violated the current Signalmen’s Agreement, particularly Rules 1, 6, 7, 15, 16, 17, 22, 31, 32, 33, 35, 37, 66, the CSXT Uniform Advertisement/Award Cycle Agreement, and the September 23, 1986 National Seniority Retention Agreement, when an employee promoted to a supervisory position was unilaterally awarded a Signal Foreman’s position by Carrier giving him a higher class of seniority and then allowed him to work as a Safety Coordinator, a supervisory position not covered by the Agreement, and denied the Claimant, who is a senior employee, the opportunity to be awarded the Foreman’s position. Carrier’s File No. 15(07-0018). General Chairman’s File No. 06-SYS-13. BRS File Case No. 14012-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.

The instant dispute claims that the Carrier allowed an employee who was holding a management position not covered by the Agreement to bid on and be awarded an assignment covered by the Agreement and establish seniority, all of which operated to the detriment of the Claimant. The Carrier denied the allegations of the claim and asserted that the other employee held a Lead Signal Maintainer assignment at all times relevant to the claim. The Carrier also asserted that the other employee never held a management position as alleged.

Under the circumstances, we are compelled to find that the record before the Board does not establish that the Agreement was violated as alleged in the claim. Therefore, the claim must 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 22nd day of April 2009.