

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 39961
Docket No. MS-40801
09-3-NRAB-00003-090094**

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

**(J. S. Miles, Jr.
PARTIES TO DISPUTE: (
(CSX Transportation, Inc.**

STATEMENT OF CLAIM:

“My claim of May 20, 2007, in the amount of \$253.82, account carrier violated the TCU/SCL clerical agreement, Rules 18(f), 19(h), 20(f), as well as others when, on May 13, 2007, it called guaranteed extra board employee B. R. Lively, ID XXXXXX, on what should have been one of his two not-necessarily-consecutive rest days to protect job number 4J10-101, (the ‘tag’ rest day of regularly assigned employee J. S. Miles, Jr., ID XXXXXX).”

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 Hearing before the Board was held on June 25, 2009. The Claimant did not make an appearance. In addition, no Submission from him was provided.

After careful review of the Carrier's Submission, it appears that the instant claim raises issues and arguments that are identical in substance to those that were addressed in Third Division Award 39666. That Award denied that claim. For the reasons stated therein, the record in the instant dispute compels the same determination.

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 30th day of September 2009.