

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43784
Docket No. SG-43978
19-3-NRAB-00003-170002**

The Third Division consisted of the regular members and in addition Referee Andria S. Knapp when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

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

Claim on behalf of W.M. Lambert, III, for all protective benefits outlined in National Agreement Provision, “Section Q, Change of Residence;” account Carrier violated the current Signalmen’s Agreement, particularly CSXT Labor Agreement No. 15-036-07 and National Agreement Provision Section Q, when, on May 13, 2015, it changed the Huntington Dispatch Center from a five-person operation to a four-person operation, which resulted in the Claimant being displaced and created an adverse effect when it refused to pay the Claimant for the expenses he was contractually entitled to upon moving from his ESS position in Huntington, West Virginia, to the position he was forced to displace on in Kentucky. General Chairman’s File No. 15-158-03. BRS File Case No. 15479-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 Board notes that this is a companion case to the claim decided in Award No. 43783. In the first claim, the Organization sought protective benefits in the form of lost compensation as a result of the Claimant's having been displaced from his position as an ESS at the Huntington Dispatch Center, which required ultimately to take a lower-paying Signalman's position. In this claim, the Organization is seeking reimbursement for the Claimant of the moving expenses he incurred as a result of having been displaced: the highest position to which his seniority entitled him was out of state.

The arguments raised by the parties in this claim are the same as were raised in the first claim. So too the Board's analysis is the same and the reader is referred to the Award in the prior claim for a more detailed discussion of the Board's reasoning. There are two elements that the Organization must show in order to establish the Claimant's entitlement to protective benefits: (1) whether the Claimant has been placed in a worse position with respect to compensation and rules governing working conditions; and (2) whether the Claimant's worse position is the result of a transaction subject to protective benefits. There is no question but that being displaced from his ESS position in Huntington, West Virginia, placed the Claimant in a worse position with respect to his compensation, as well as forcing him to incur the costs of relocating out-of-state to the highest position his seniority afforded him. However, CSXT Labor Agreement 15-036-07, on which the Organization relies for its position that the Claimant is entitled to reimbursement of his moving expenses, does not apply to the Claimant. The Agreement established protective benefits only for ESSs affected by the Carrier's 2008 decentralization of dispatch operations out of Jacksonville, Florida, into a number of regional dispatch centers. The Claimant was not an ESS at the time, nor was he adversely affected as a result of the decentralization. The Organization has not met its burden of proof, and the claim is denied.

AWARD

Claim denied.

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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 16th day of July 2019.