

PUBLIC LAW BOARD NO. 4816

Parties
to the
Dispute

In The Matter of the Arbitration between

CSX Transportation Inc.
(former Louisville & Nashville)

and

Brotherhood of Maintenance of Way Employees

Case No. 1

STATEMENT OF CLAIM

	ID NO.		ID NO.
1. L.E. Wynn	180301**	24. M.A. Clemons	185571**
2. B.L. Wynn	187928*	25. J.H. Berkley	185704**
3. R.V. Washburn	187654*	26. J.A. Edwards	187641
4. L.W. Gay	188285**	27. D.W. Russell	187678
5. B.S. Morgan	188321	28. C.F. Rays	187752
6. L.B. Hansel	187630**F	29. R.R. Wells	187965
7. M. Blevins	187631*B	30. H.W. Aldridge	188079**
8. D.W. Hicks	187675	31. R.H. Walton	188216
9. J.C. Hess	187841*	32. D.E. Steele	188303
10. G.A. Smiley	187842*	33. S.D. Bonds, Jr.	188411*
11. W.C. Downs	187883***	34. C.H. Davis	188490
12. F.L. Martin	188082	35. C. Horn	196044*
13. G.B. Prater	188284	36. W.L. Reuter	629267
14. J.S. Reams	188301	37. J.D. Durst	629307
15. A.G. McFadden	188307**	38. D.R. Durst	629307
16. J.A. Swartz	188382*	39. M.L. White	187958
17. B.G. Garnert	188407	40. G.K. Bond	187190
18. G.W. Hammons	188423	41. D.D. Henderson	197025*
19. F.L. Muncy	188426	42. G.D. Combs	522379
20. T.R. Jones	188427	43. B. Colwell	188193*
21. W.F. Bronaugh	197021*	44. C.M. Marinski	629579
22. O.L. Johnson	188334**	45. G.A. Johnson	185748
23. D.R. Cheek	187441*	46. D.M. Hall	187268

"Claimants should be paid all expenses due them under Arbitration Board Award 298, from June 13, 1988, and continuous until violation is stopped."

"On June 13, 1988, the Carrier started working Extra Gang 5C77, headquartered at O'Bannon, KY. This Gang was abolished August 5, 1988."

"On August 8, 1988, the Carrier again established Gang 5C77, headquartered in Camp Cars at London, KY. Gang 5C77 was a Timbering and Surfacing Gang, and should have been assigned Camp Cars."

"Each claimant should receive 6.50 per day for meals and any expense incurred while working on Gang 5C77."

"...Rules 47, Appendix No. 35 and Award 298 were violated..."

OPINION OF THE BOARD

On June 13, 1988, Carrier established a forty man Tie and Surfacing Gang at O'Bannon, Kentucky. This Gang (Extra Gang 5C77) was established with fixed headquarters at O'Bannon and performed work between Mile-post 43 and Mile-post 15 on the L.C.L. Subdivision. The tie portion of the Gang (35 positions) was abolished on August 5, 1988; the surfacing portion (5 positions) was abolished on August 26, 1988.

On July 18, 1988, Carrier posted a bulletin advertising a 35-man Floating Tie Gang. This Gang was to be housed in

camp cars and was to start work on August 8, 1988. On September 16, 1980, the Floating Gang was abolished. On April 3, 1989, a 40-man Tie and Surface Gang was re-established with a Headquarters point at Butler, KY. When the O'Bannon Gang was abolished on August 5, 1989, and the Floating Gang established in camp cars at London, KY, the Union filed a claim contending that Carrier must pay Award 298 benefits (meal allowances and living expenses) to all employees involved from June 13, 1988, on. This claim was subsequently modified to include all employees who worked in the Butler Gang up to the time the Gang was abolished on June 9, 1989. The Union seeks meal money of \$6.50 per day and other expenses incurred for all employees named in the claim.

This Board has reviewed the record before it and it has concluded that while Petitioner's claim was filed in a timely manner, it has no merit. Petitioner has not identified the Agreement Article that it alleges Carrier violated nor has it presented any evidence (receipts, cancelled checks, accounting records) to support its claim that employees were disadvantaged in any manner by the way in which Carrier established and abolished the three Gangs involved in this claim. This Board can find no rule that restricts Carrier's right to establish a Fixed Headquarters Gang and abolish that Gang when the work is completed at the location.

While Carrier used the same Gang number for the Fixed Headquarters Gang and the London Floating Gang, this Board does not consider these two Gangs to be a single Gang that should have been placed in camp cars and paid the meal expenses from June 13, 1988, on.

Carrier established a Fixed Headquarters Gang at O'Bannon. It made camp cars available for employees to use if they chose to do so. It did not, however, require employees to use the camp cars and the total Gang reported to work each morning and went off duty each day at O'Bannon.

The Gang was advertised as a Fixed Headquarters Gang and those who bid the jobs in the Gang were fully aware of the conditions. The O'Bannon Gang was abolished and the Floating Gang housed in camp cars with all allowances to be paid was established at London, KY. The Board sees no restriction against Carrier taking this action, just as it can find no restriction against Carrier abolishing the Floating Gang and establishing a Fixed Headquarters Gang at Butler, KY, six months later.

A review of the material presented to the Board and the authority cited by Petitioner (Rule 47, Appendix No. 35, and Award 298) does not support a finding in the Union's favor.

AWARD

The claim is denied.

R.E. Dennis

R.E. Dennis, Neutral Member

B.C. Sweatt

B.C. Sweatt, Carrier Member

N.J. Marquat

N.J. Marquat, Employee Member

3-26-90

Date of Adoption