

AWARD NO. 127
Case No. 127

Organization File No. 156760010
Carrier File No. 2010-082215

PUBLIC LAW BOARD NO. 7163

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES DIVISION,
) INTERNATIONAL BROTHERHOOD OF TEAMSTERS
TO)
)
DISPUTE) CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM:

1. The Agreement was violated when the Carrier failed to call and assign C. Brown to repair a switch at the north end of the west pit turnout in Evansville, Indiana on November 15, 2010 and instead assigned Roadmaster R. Johnson.
2. As a consequence of the violation referred to in Part 1 above, Claimant C. Brown shall now be compensated for two (2) hours and forty (40) minutes at his respective time and one-half rate of pay.

FINDINGS:

The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.

The Organization has filed this claim asserting that Roadmaster R. T. Johnson, who is not covered by the Agreement, performed work reserved to members of the maintenance of way craft by repairing a switch located at the north end of the west pit turnout in Evansville, Indiana. It asserts this work was performed at 4:00 pm on November 15, 2010, and that Claimant, a regularly assigned

track inspector, was available to perform this work. It argues, therefore that the failure to call Claimant constituted a violation of the Agreement entitling him to the remedy requested.

When the claim was appealed to Director Labor Relations Nihoul, he responded by forwarding an email from Roadmaster Johnson stating:

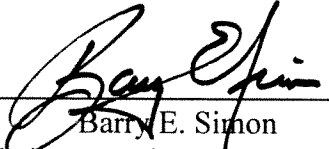
This is not correct. I came out to a derailment that morning where an engine had run over a derail and the switch had been damaged in derailment. I assigned WJ Barrett to repair switch when he came in at start time on 11-15-2010.

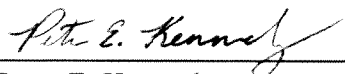
The Organization, in turn, submitted a statement from Claimant, stating as follows:


This is in response to the Roadmaster R.T. Johnson adding shims to the switch stand at the North end of the West Pit track. The Howell yard MOW employees have their Seniority on the L&N SD district that is on the Nashville Division. The Louisville Division has the B&O SD Seniority district. On the daily safety call, on November 16, 2010, R.T. Johnson did state that he added shims to the switch stand. The work was completed after 1600 hours and I was not fully employed performing track inspections and did lose the opportunity to work.

Inasmuch as we cannot resolve the factual dispute as to whether Roadmaster Johnson did, in fact, perform covered work, we must deny the claim.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member


Peter E. Kennedy
Employee Member


Robert Paszta
Carrier Member

Dated: January 7, 2013
Arlington Heights, Illinois