

PUBLIC LAW BOARD NUMBER 4138

Award Number: 2

Case Number: 2

PARTIES TO DISPUTE

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

CSX TRANSPORTATION INC.

STATEMENT OF CLAIM

First: that the Carrier violated agreement between the L&N railroad and the Maintenance of Way Employes when they filled a track repairman's normal duties with a machine operator.

FINDINGS

On January 30, 1986, the Organization filed a claim on behalf of Claimant seeking compensation on the basis that Carrier used a Machine Operator to perform Track Repairman's duties on January 23, 1986..

The issue to be decided in this dispute is whether Carrier violated the Agreement by using a Machine Operator to perform Track Repairman's duties on the date in question.

The position of the Organization is that Carrier impermissibly used a Machine Operator to perform Track Repairman's duties on the date in question and that Claimant should be compensated accordingly, since he was entitled to perform this work.

The Organization contends that Claimant, as a furloughed Track Repairman on the K and A subdivision, should have been used in lieu of Machine Operator Sizemore, since Sizemore held no seniority on the K and A subdivision and is not a Track Repairman. The Organization argues that Sizemore's rights on the K and A subdivision should have been limited to those associated with the operation of his System Service machine. The Organization further argues that if Sizemore's machine had broken down, as alleged by Carrier, his proper function would have been to help repair the machine, not to work on track repair duties. Finally, the Organization alleges that it had an informal understanding with Carrier that employees classified to perform certain duties would not be called upon to perform in a different classification area.

Carrier contends that Machine Operator Sizemore was properly utilized on the date in question due to a breakdown of his machine. Carrier cites Rule 11(e) which states, "When the services of operators of machines are not needed on the machines, they may be required to perform other work in their respective subdepartments at their regular rate of pay." Carrier maintains that this rule clearly allows the service performed by Sizemore, since he was "not needed on the machines" due to the malfunction.

Carrier further contends that the fact that Claimant was an available, furloughed Track Repairman at the time in no way prohibits its use of Sizemore to perform the work, since it was under no obligation to recall Claimant to perform that work. Carrier maintains that the alleged informal agreement concerning work classifications has no bearing in this case, since

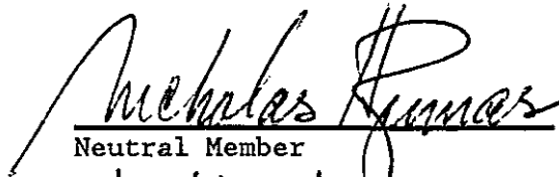
Rule 11(e) specifically permits the use of different work classifications for Machine Operators.

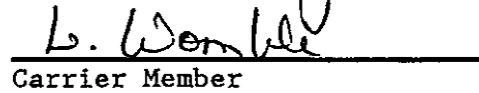
After review of the record, the Board finds that the Organization's claim must be denied.

We find no support in the Agreement for the Organization's claim. Rule 11(e) is plain and unambiguous in its language, and it clearly allows Carrier to utilize Machine Operators to ". . .perform other work in their respective subdepartments. . ." when they are not needed to service their machine. Since Sizemore was not needed to service his machine (due to malfunction), Carrier could properly utilize him on track repair duties. The Organization has failed to point to any contractual provision requiring Carrier to recall a furloughed employee when an eligible and available employee is capable of assuming the duties in question. Any verbal understanding between the parties related to work classification is clearly superceded by Rule 11(e), which unequivocally allows the performance of the service in question by a Machine Operator. We therefore find that Carrier acted properly in utilizing a Machine Operator to perform the duties in question and that Claimant therefore had no right to perform those duties.

AWARD

Claim denied.



Neutral Member

Carrier Member

Organization MemberDATE: February 1, 1988