

Award No.: 21

Case No.: 21

PARTIES TO DISPUTE

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

And

CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM

1. The Agreement was violated when Carrier assigned junior extra welders to perform overtime work.
2. Claimants Eagle and Mason now be paid 63 1/2 hours overtime each at their respective rates of pay from December 21, 1985 through January 13, 1986.

FINDINGS

Claimants are assigned to Welding Gang 5C61, working as welder and assistant welder. Gang 5C61 is headquartered at Corbin, Kentucky and assigned to work building switch points and frogs between Corbin and Barboursville, Kentucky.

During the period in question, the yard at Corbin was in the process of expansion. For the specific purpose of facilitating that expansion, Welding Gang 5C55 was established. 5C55 was composed of Welder G. L. Farris and Welder's helper G. M. Taylor.

Both welding gangs worked Monday to Friday with Saturday and Sunday rest days. However, on two Saturdays, December 21 and 28, 1985; two holidays, December 24 and 25, 1985; and Monday, January 13, 1986, the Carrier needed certain work performed in connection with the Corbin yard expansion. The work was the same work performed during the work week by Farris and Taylor, who, on those dates in question, performed it on an overtime basis. On the occasions in question, Claimants were not unassigned or extra and did not perform the work.

Rules 30(b), (f) and (g) provide:

30(b) Employes, who desire to be considered for calls under Rule 31, will provide the means by which they may be contacted by telephone or otherwise, and will register their telephone number with their foreman or immediate supervisory officer. Of those so registered, calls will be made in seniority order as the need arises.

A reasonable effort must be made to contact the senior employe so registered, before proceeding to the next employe on the register. Except for section men living within hailing distance of either their foreman's living quarters or their tool house or headquarters station, and for men living in camp cars when they are present at the camp cars, an employe not registered as above shall not have any claim on account of not being worked on calls.

30(f) The senior available men shall be given preference in the assignment of overtime work on their home sections.

30(g) Where work is required by the carrier to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employe who will otherwise not have 40 hours of work that week; in all other cases by the regular employe.

The issue to be decided in this dispute is whether the Carrier violated the Agreement by not calling Claimants to perform the welding work on the days in question; and if so, what should the remedy be.

The position of the Organization is that the Carrier violated Rule 30 by not assigning the Corbin yard overtime work to Claimants. The Organization contends that Claimants were senior to Farris and Taylor and should have been called for the overtime work under the provisions of Rule 30 (b) and (f). The Organization agrees with the Carrier that the intent of Rule 30(f) is "that employees will have preference to work on an overtime basis that is of the nature and in the area of their regular assignment." The Organization contends that the welding work performed by Farris and Taylor is of the "nature" normally performed by Claimants and they, therefore, should have been called to do it. Since they were not, the Carrier is in violation of the Agreement.

The position of the Carrier is that it did not violate the Agreement. The Carrier contends that Rule 30(g) is controlling in this matter. It maintains that the welding work in question was not the sort for which employees had to be "called," since it was planned work that was simply a continuation of the work performed during the week by Farris and Taylor. According to Rule 30(g), this work must go first to extra or unassigned welders (which Claimants were not) and then to the "regular employee." The Carrier maintains that that is exactly what it did.

After review of the entire record, the Board finds that the Carrier did not violate the Agreement.

The Organization has not sustained its burden of proving that Claimants were entitled to the overtime assignment and were wrongly denied it. Rather, the Carrier has shown that Farris and Taylor were regularly assigned to perform the same work during the week, work related to the yard expansion, as they performed on overtime on the dates in question. The work in the yard was required by the Carrier under its managerial prerogative to be performed on a day "which is not part of any assignment" -- both Claimants and Farris and Taylor had Saturday and Sunday rest days. Neither Claimant was unassigned or extra. Therefore, under the provisions of Rule 30(g), Farris and Taylor, as the "regular employee[s]," were properly assigned the work.

AWARD

Claims denied.

Nicholas Pina
Neutral Member

B. Claude Sweatt
Carrier Member

Bryce L. Hall
Organization Member

Date:

April 3, 1990