

AWARD NO. 205

Case No. 205

Organization File No. I61705813

Carrier File No. 2013-145950

**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, on April 22, 23, 24 and May 3, 2013, the Carrier assigned junior employe M. Holder to perform assistant foreman duties on the LH&STL seniority district and failed to properly assign Claimant B. Jolly thereto.
2.     As a consequence of the violation referred to in Part 1 above, Claimant B. Jolly shall be paid thirty-two (32) straight time hours and twenty-five (25) overtime hours.

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.

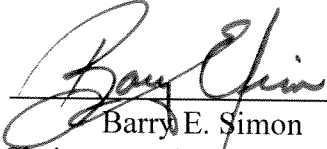
The Organization filed this claim asserting that the Carrier assigned M. D. Holder to perform flagging duties at Mile Post OHR7.1 on the LH&STL seniority district, even though he does not possess assistant foreman seniority rights on that district. It asks that Claimant, who does hold seniority on the LH&STL district, be compensated in an amount equal to the earnings of employee Holder during this period of time.


The record reflects that flagging protection was necessary on territory that was entirely within the Louisville Terminal territory, where Claimant did not have seniority rights. It is evident, though, that the only work performed by Holder on the LH&STL district was the placement of a stop board at Mile Post OHR7.1. This was necessitated by the configuration of the trackage at this location. The stop board was located 100 feet within the LH&STL territory. The Carrier made these assertions during the handling of the claim on the property, and they were never refuted by the Organization.


Because Holder was required to perform work outside of his seniority district, the Board finds that the Carrier was in violation of the Agreement. We believe, however, that it would have been absurd to call Claimant on each date solely to install and remove the stop board and pay him the remedy sought by the Organization. While the collective bargaining agreement operates to protect the seniority rights of employees, it should not be a burdensome obstacle to the safe and efficient operation of the railroad.

The amount of work performed was *de minimis* and necessary to be done by Holder in order to perform the work he was doing on his own seniority district. When a contractual violation is *de minimis* it does not automatically follow that no remedy should be granted. Rather, the Board may grant a remedy that reflects the *de minimis* nature of the violation. Accordingly, and strictly on the basis of the facts presented in this case, we will direct that Claimant be compensated for one hour for installing the stop board and one hour for removing the stop board on each date of claim. Such payments shall be at the straight time rate of pay. It is the Board's opinion that this adequately compensates Claimant for the amount of work performed by Holder on his seniority district.

AWARD: Claim sustained in accordance with the above Findings. The Carrier is directed to comply with this Award within forty-five days.

  
Barry E. Simon  
Chairman and Neutral Member

  
Andrew Mulford  
Employee Member

  
Rob Miller  
Carrier Member

Dated: January 27, 2016  
Arlington Heights, Illinois