

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 7163

Brotherhood of Maintenance of Way)	
)	
Employees Division, IBT Rail Conference)	Case No. 259
)	Award No. 259
and)	
)	
CSX Transportation, Inc.)	

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when, commencing July 22, 2013, and continuing,

the Carrier removed Maintenance of Way forces from performing flagging duties

near Mile Post CFP 113.7 near Washington, D. C. and assigned such work to the

Transportation Department (System File A02820313/2013-150401 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimant S.

Hardy shall receive the same amount of straight time and overtime hours

expended by the Transportation Department employees commencing on July 22,

2013 and continuing until the violation ceases."

FINDINGS:

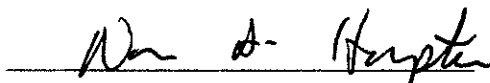
The Organization argues that the Claimant was assigned as an Assistant Foreman during the time in question. The Claimant was removed from his assigned position on July 22, 2013, and replaced him with Transportation Department employees, who then performed Maintenance of Way work such as flagging near Mile Post CFP 113.7. That the Carrier, once alerted to the violation, properly re-assigned Claimant to the work.

The Carrier responds that it is the Carrier who has the responsibility of determining whether the work holds potential for undermining the road bed or track structure. In this case the Carrier determined that a flagman was not required because the work in question did not have the potential to undermine the integrity of the road bed or track structure. Further, the Organization has not supplied any documentation proving that any violation occurred.

The Board has carefully reviewed the record before us, and it is obvious that the Organization has met their burden of proof. The file contains correspondence from a Supervisor that he had contacted the Claimant and re-assigned him to the position in question. We have also determined that the claim has agreement support.

AWARD:

Claim sustained in accordance with the findings.



Don A. Hampton

Neutral Chairman and Referee



Katrina Donovan

Carrier Member



Andrew Mulford

Employee Member

DATED: 3/14/18