

PUBLIC LAW BOARD NO. 7163

AWARD NO. 3

CASE NO. 3

Carrier File: 12 (03-0013)

BMWE File: B17403102

PARTIES TO
THE DISPUTE: Brotherhood of Maintenance of Way Employees
 Division - IBT Rail Conference
 vs.
 CSX Transportation, Inc.

ARBITRATOR: Gerald E. Wallin

DECISION: Claim denied.

STATEMENT OF CLAIM:

- “1. The Carrier violated the Agreement when failed and refused to assign Mr. C. M. Jeffery to the training position on Bulletin SCRR-0095 dated August 5, 2002 [System File B17403102/12(03-0013) CSX].
2. As a consequence of the violation referred to in Part (1) above, Claimant C. M. Jeffery shall now ‘... be allowed to report to the training position, be allowed thirty days training, and then establish seniority beginning on the date he should have been awarded the training position of Machine Operator on the Raleigh/Rocky Mount Seniority District. Plus be placed on all the appropriate Seniority Rosters, and be compensated for all losses suffered, as a result of the Carrier’s actions.”

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

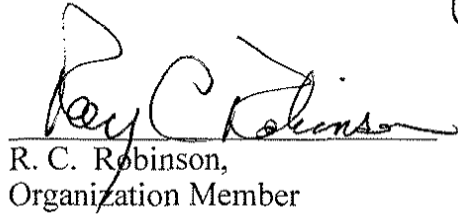
The instant dispute presents an unusual record due to the mismatch contained in the parties’ submissions. It is not possible to determine the contents of the on-property record with confidence. In addition, the contents of certain of the correspondence strongly suggest that erroneous information was provided by both parties. The only facts that appear to be reasonably clear is that the disputed position was properly advertised several times with the final bulletin being cancelled because it incorrectly stated the days of work, hours, and location. The claim appears to demand that claimant be assigned to that training position whose advertisement was promptly cancelled the day after it was published.

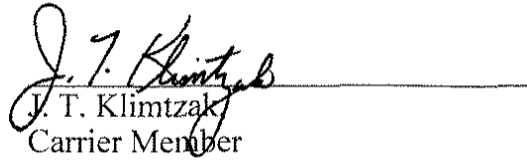
Given the record we have before us, we find that the burden of proof to establish a viable claim has not been satisfied. The claim, therefore, must be denied.

AWARD:

The Claim is denied.


Gerald E. Wallin, Chairman
and Neutral Member


R. C. Robinson,
Organization Member


J. T. Klimtzak
Carrier Member

Date: December 1, 2008