

AWARD NO. 26

Case No. 26

Organization File No. B16141905

Carrier File No. 12 (06-0645)

PUBLIC LAW BOARD NO. 7163

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
)
TO)
)
DISPUTE) CSX TRANSPORTATION COMPANY

STATEMENT OF CLAIM:

(1) The Agreement was violated when the Carrier called and assigned junior employe R. Pike to perform flagging work for the installation of a drain pipe on the Jacksonville Division near Deland, Florida, beginning on November 14, 2005 and continuing, instead of Mr. C. Hundley.

(2) The claim referenced in Part (1) above, as conferenced with the Carrier by Vice Chairman L. C. Smith on July 11 and 12, 2006, shall be allowed as presented because said claim was not disallowed by Director Employee Relations J. H. Wilson in accordance with Rule 24.

(3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimant C. Hundley shall now “. . . be compensated for 144 straight time hours and 164.5 overtime hours, account the Carrier’s violation of the Rules cited. By reference, Rule 24(e) is made a part of the claim in that it is intended that the provisions thereof will apply so long as this violation continues.”

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.

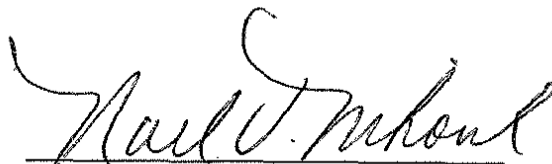
It appears from the record before the Board that this claim was not discussed in conference, as required by Section 3, First (i) of the Railway Labor Act. It is evident the Organization requested a conference, but did not provide the Carrier with the proper file number. Consequently, the Carrier officer conducting the conference did not have the file. The Organization's offer to share its file did not remedy the situation because the Carrier is privileged to use its own file with its own notes. The Organization did not ask to reschedule the conference on this claim, but went forward and docketed the dispute with NRAB, at which time the record was closed. The claim was subsequently transferred to this Board.

Inasmuch as the claim was not discussed in conference, we have no choice but to conclude it is not properly before the Board. Accordingly, we must dismiss it.

AWARD: Claim dismissed.


Barry E. Simon
Chairman and Neutral Member


Roy C. Robinson
Employee Member


James T. Klimtzak
Carrier Member

Dated: December 30, 2008
Arlington Heights, Illinois