

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 4
Case No. 4

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
and

CSX Transportation, Inc. (Formerly the Chesapeake and
Ohio Railway Company)

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement when it abolished the position of Mr. R. C. Ludwig, Jr. without benefit of the five (5) working days' advance notice as required by Rule 2(1-1) [System File C-TC-9545/12(94-528) COS].

2. As a consequence of the above-stated violation, Mr. R. C. Ludwig, Jr. shall be compensated for two (2) days, ten (10) hours per day, and meal expenses with two (2) days' credit for vacation qualifying purposes.

FINDINGS:

This Board, upon the whole record and all of the evidence, finds and holds as follows:

1. That the Carrier and the Employee involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act, as amended,; and

2. That the Board has jurisdiction over this dispute.

OPINION OF THE BOARD:

Rule 2(1) provides, in pertinent part, that "not less than five (5) working days notice will be given to regularly assigned employees . . . whose positions are to be abolished before such reductions in force are made." The record substantiates that a factual dispute exists between the parties because the Claimant denies receiving the required advance notice and the Carrier asserts that its representative unsuccessfully attempted to provide the required advance notice by telephone. Although the

Organization sought documentary evidence from the Carrier to verify that the representative of the Carrier had attempted to provide the required notice to the Claimant, the Carrier failed to provide such documentary evidence, namely, the applicable telephone records. In the absence of such corroboration of documented attempts to provide timely advance notice to the Claimant, the record omits sufficient evidence that the Carrier complied with the requirements of Rule 2(1).

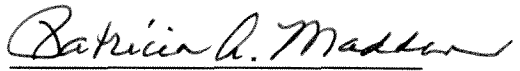
In the absence of any timely challenge by the Carrier of the requested remedy, the requested remedy shall be granted.

AWARD:

The Claim is sustained in accordance with the Opinion of the Board. The Carrier is ordered to make the Award effective on or before 30 days following the date of this Award.


Robert L. Douglas
Chairman and Neutral Member


Donald D. Bartholomay
Employee Member


Patricia A. Madden
Carrier Member

Dated: 12/3/98