

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 9
Case No. 9

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

CSX Transportation, Inc. (former Louisville and
Nashville Railroad Company)

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned outside forces (A. T. Massey) to perform Maintenance of Way and Structures Department work (ditch the main line) at Mile Post 31.5 on the Big Coal Subdivision beginning on June 1 through 13, 1994 [System File C-TC-5831/12(94-0767) COS].
2. The Agreement was further violated when the Carrier failed to give the General Chairman advance written notice of its intent to contract out said work or discuss the matter in conference in good faith prior to contracting out said work as required by the October 24, 1957 Letter of Agreement (Appendix 'B').
3. As a consequence of the violations referred to in Parts (1) and (2) above, Equipment Operator A. B. Shelton shall be allowed seventy-two (72) hours' pay at the Class A Operator's rate.

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:

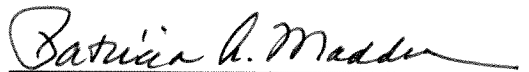
The record indicates that the Carrier failed to provide advance written notice to the Organization of the Carrier's intent to use outside forces to perform the disputed work. The record, however, indicates that an emergency situation existed that eliminated the need for any advance written notice and permitted the Carrier to use the outside forces to perform the disputed work. Specifically, the record indicates that ditching the main line became necessary to enable the rolling stock to move through the relevant area and the Carrier had used all of ditchers at the time to remove slides at other locations. As a result, the Carrier did not commit a violation under these specific circumstances by using outside forces to address the emergency.

AWARD:

The Claim is denied in accordance with the Opinion of the Board.


Robert L. Douglas
Chairman and Neutral Member


Donald D. Bartholomay
Employee Member


Patricia A. Madden
Carrier Member

Dated: 12/3/98