

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 15
Case No. 15

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 Carrier violated the Agreement when it assigned W&A Seniority District forces to perform work (cut and remove trees from the track) between Mile Posts 2.4 and 116.7 on the Bruceton/Memphis Subdivision, Nashville Division on February 11 and 12, 1994 [System File 14(13)(94)/12(94-0900) LNR].

2. As a consequence of the violation referred to in Part (1) above, Claimants R. A. Foster, T. G. Parker, L. J. Flake and T. E. Miller shall, "Be paid 8 hours overtime each for February 11, 1994 and 15 and 1/2 hours overtime each for February 12, 1994 at their respective rates of pay."

FINDINGS:

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

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

2. That the Board has jurisdiction over this dispute.

OPINION OF THE BOARD:

This dispute arose as a result of the Carrier's assignment of active personnel from one seniority district to cut and to remove trees from the right-of-way in another seniority district in the aftermath of extensive damage caused by a severe ice storm. In

assigning the active personnel from a different seniority district, the Carrier failed to recall from furlough the Claimants, who possessed seniority in the seniority district in which the Carrier assigned the active employees to perform the relevant temporary emergency work. The record indicates that the severe ice storm created serious emergency conditions that justified the Carrier's reasonable action in immediately assigning the active, available employees to cut and to remove the trees from the right-of-way in a timely manner. Under these special circumstances the Carrier did not violate the Agreement.

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: February 19, 1999