

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 108
Case No. 108

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 posted Bulletin LNCI-0006 advertising a ballast regulator/machine operator position, requiring the applicants to have a commercial driver's license [System File **8(4)(98)/12** (98-860) LNR].
2. The Agreement was further violated when the Carrier removed Mr. C. L. Ball from his assignment to the **above-**referenced Bulletin LNCI-0006 and placed junior employee D. E. Baker on said position.
3. As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimant C. L. Ball **"will** be awarded the Ballast Regulator (sic) and paid for any loss of pay and benefits...." as a result thereof.

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.

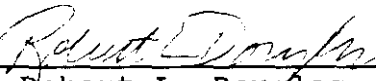
OPINION OF THE BOARD:

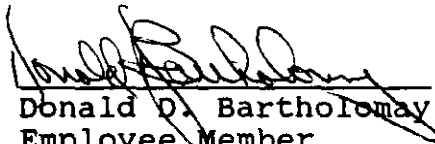
The record omits any persuasive evidence that the Carrier acted in an arbitrary or capricious manner by requiring the successful applicant for the position to have a valid commercial driver's license with a hazardous materials endorsement. In particular, the record substantiates that a fuel truck constituted part of

the equipment assigned to the three-member team that included the disputed position. Insofar as the record indicates that the Claimant lacked the referenced license and perforce lacked the required qualifications, the Carrier therefore did not violate the Agreement by failing to assign the Claimant to the referenced position. This determination is consistent with this Board's prior determination in Case No. 20.

AWARD:

The Claim is denied.


Robert L. Douglas
Chairman and Neutral Member


Donald D. Bartholomay
Employee Member


Mark D. Selbert
Carrier Member

Dated: 8/15/01