

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 125
Case No. 125

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
and

CSX Transportation, Inc. (former Baltimore and Ohio
Chicago Terminal Railroad Company)

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- 1) The Agreement was violated when the Carrier assigned an Indiana Harbor Belt Railroad Switchman to perform Maintenance of Way work (flagging to protect track) at 71st Street, 87th Street and 123rd Street on the B&OCT seniority territory on March 30, 31, April 1, 2, 3, 4, 5, 6, 7, 8 and 9, 1998 [System File 1(18)(98)/12(98-1365) BOC].
- 2) As a consequence of the violation referred to in Part (1) above, Claimant L. Arroyo shall now ". ..be paid 8 hours overtime for each date of March 30, 31, April 1, 2, 3, 4, 5, 6, 7, 8, and 9, 1998 at his respective rate 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 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.

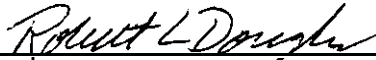
OPINION OF THE BOARD:

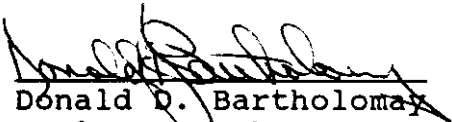
A careful review of the record indicates that the Indiana Harbor Belt Railroad operates the McCook Subdivision, where the dispute originated. The Carrier therefore lacks the sole authority to determine who shall perform flagging on the McCook Subdivision. In fact, the Carrier did not participate in the assignment of the

Switchman to perform the disputed work. The record therefore omits any credible evidence that the Carrier exercised the necessary control at the time of the assignment of the Switchman to perform the disputed work. In the absence of such control, no basis exists to hold the Carrier responsible for the assignment of the Switchman to perform the disputed work.

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


Mark D. Selbert
Carrier Member

Dated: 9-6-01