

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 146  
Case No. 146

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees  
and  
CSX Transportation, Inc.

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier violated Appendix No. 34 of the Agreement when it allowed Welder R. **K.** Orr and his Helper to perform Track Repairman's duties (spreading ties, pulling spikes, applying anchors, and removing splices) while making field welds at 20 different locations on the Memphis Subdivision between Mile Post 263.7 and Mile Post 361.1 and **on** the **Bruceton** Subdivision at Mile Post 11.7 on September 1, 2, 3, 7, 8, 9, 13, 14, 15, 16, 17, 21, 22, 23, 24 and 28, 1993. [System File **14(63)(93)/12(94-47)** LNR].
2. As a consequence of the aforestated violation, Track Subdepartment employees R. **D.**Davidson and J. T. Pruitt shall be paid eight (8) hours' straight time pay at their appropriate **Trackman** Repairman's rate of pay for each day during September 1993 that the violation occurred.

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:

Appendix 34 provides, in pertinent part, that:

in the future on all Seniority **Districts** of this Company when field welds are being made a track repairman will be assigned to work with the welding gang to perform the track work unless the ties have

already been spread to permit the field weld and that we will not be presented time claims that the welding gang is performing track sub-department work and also time claims that the track repairman is performing welding sub-department work.

This dispute involves a claim about the performance of scope covered work by a Welder and a Welder Helper, who did not possess active seniority under the Agreement in the Track Subdepartment. The Welder and the Welder Helper did possess active seniority under the Agreement in the Welding Subdepartment.

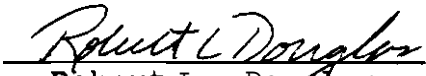
Rule 3 and Rule 5 differentiate between the Track Subdepartment and the Welding Subdepartment. Employees covered by the Agreement accrue seniority in such different subdepartments.

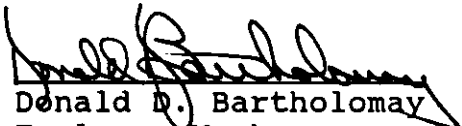
The critical inquiry therefore requires a determination of whether the Welder and Welder Helper performed track work incidental to their primary work of welding **or** whether they performed a substantial and significant quantity of track work that warranted the assignment of the Claimants from the Track Subdepartment to perform such work.

The record contains a report from the Roadmaster that indicates that Section Forces performed the work of spacing ties. Although the Welder and Welder Helper disagreed with the Roadmaster's statement, the record omits any basis to resolve this factual conflict. As a result, the record omits any persuasive evidence from the Welder or the Welder Helper to support the Organization's position that the Welder and/or the Welder Helper performed track repair work under these precise circumstances on the relevant dates.

AWARD:

The Claim is dismissed.

  
**Robert L. Douglas**  
Chairman and Neutral Member

  
**Donald D. Bartholomay**  
Employee Member

  
**Mark D. Selbert**  
Carrier Member

Dated: 10-1-01