

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 12

Case No. 12

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

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

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement when it failed and refused to allow Local Chairmen under the organization of the Southeast System Federation the same opportunities and privileges extended to the members of the United Transportation Union with respect to the purchase of computers, access to computers, internal documents, office space and an Automated Claims Tracking System or ACTS [System File 14(70)(94)/12(94-801) LNR].

2. As a consequence of the violation referred to in Part (1) above, the Carrier shall:

(a) allow Local Chairmen of the Southeast System Federation the same opportunity to purchase computers through CSX;

b) allow Local Chairmen of the Southeast System Federation access to Division and Jacksonville, Florida computers for the purpose of doing union business after said purchase;

c) allow Local Chairmen of the Southeast System Federation access to all Company computers and internal documents as it relates to Maintenance of Way work;

d) allow Local Chairmen of the Southeast System Federation local office space on CSX property, furnished with a computer "for the purpose of doing union business in that area; and

e) set up an Automated Claims Tracking System

of ACTS for use by the Southeast System Federation Local Chairmen, as provided to the Local Chairmen of the United Transportation Union."

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:

Rule 58 provides, in pertinent part, that:

No discrimination shall be practiced by the railroad company as between members and non-members of organizations, or as between members of different organizations, nor shall members of organizations discriminate against non-members.

The Organization contends that the Carrier violated Rule 58 with respect to the actions set forth in the Statement of Claim. Rule 58 is ambiguous because the term "members" may embrace employees and Organization official's or the term "members" only may embrace only employees in the narrow contest of terms and conditions of employment. The record omits any persuasive evidence to resolve this ambiguity. As a result, the Organization failed to meet its burden of proof. The Organizations rights are expressly reserved to address this matter in collective bargaining.

AWARD:

The Claim is dismissed 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