

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 20
Case No. 20

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

CSX Transportation, Inc. (Formerly the Baltimore
and Ohio Railroad Company)

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned a junior employe with no foreman's seniority to a foreman's position effective August 8, 1994, which was advertised under dated of July 13, 1994 with the improper requirement that the applicants must have a valid commercial driver's license (CDL) [System File B-TC-9248/12 (95-0012) BOR].
2. As a consequence of the violation referred to in Part (1) above, Claimant R.L. Graves shall be assigned to the foreman's position, Bid Number COCU-0031, and he shall be compensated for all wage loss suffered beginning August 8, 1991 and continuing until the violation ceases.

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 foreman's position to have a valid commercial driver's license. Although the relevant work assignment did not require the current use of a truck and therefore the personnel did not possess a truck as a general practice, the Carrier had a right to maintain future flexibility by being prepared for those situations when the use of a truck might become necessary.

Insofar as the record indicates that the Claimant lacked such a license, the Carrier therefore did not violate the Agreement by failing to assign the Claimant to the position. In addition, the present dispute only involves Claimant Graves because any reference to E.J. Faircloth as another Claimant would generate inappropriate duplicative claims arising from the same occurrence.

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