

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 23

Case No. 23

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 assigned a welder and welder helper from the former B&O Railroad to perform welding duties on Henderson Division Seniority District, Welding District 2 on the former L&N Railroad on October 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27 and 28, 1994, instead of assigning furloughed Welding District 2 employees J. D. Wheeler and M. D. Johnson [System File 3(2)(94)/12(95-0072) LNR].

2. As a consequence of the violation referred to in Part (1) above, Welder J. D. Wheeler and Welder Helper M. D. Johnson shall now be allowed eight (8) hours' pay per day at their respective straight time rates for each of the claim dates listed in Part (1) above and any and all overtime worked by the former B&O employees.

FINDINGS:

This Board, upon the whole record and all of the evidence, finds and holds as follows:

1. That the Carrier and the Employees involved in this dispute are, respectively, Carrier and Employees 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 present dispute involves the transfer of a Welder and a Welder's Helper from one railroad (B&O) to another railroad (L&N). The Agreement fails to authorize such action, which conflicts with the seniority structure set forth in the Agreement. In fact, the undisputed record indicates that the Carrier's representative immediately halted the arrangement after the Organization complained. The Carrier's action constitutes an acknowledgement that the transfers should not have occurred. As a result, the Carrier violated the Agreement by effectuating the transfers.


With respect to the appropriate remedy, the extensive precedent cited in the record substantiates the propriety of the monetary claim sought by the Organization on behalf of the Claimants. The Carrier did not dispute the number of hours worked by the personnel from the foreign road. As a result, the requested remedy shall be granted.

AWARD:

The Claim is sustained in accordance with the Opinion of the Board. The Carrier shall make the Award effective on or before 30 days following the date of this Award.


Robert L. Douglas
Chairman and Neutral Member


Donald D. Bartholomay
Employee Member


Patricia A. Madden
Carrier Member

Dated: February 19, 1999