

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 111  
Case No. 111

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 junior employees to perform overtime service hi-railing the main tracks beginning at Mile Post OWM-242.2 on the CV Seniority District on March 13, 1998, instead of calling the regular employees [System File 13(4)(98)/12(98-1102) LNR].
2. As a consequence of the aforesaid violation, Section Foreman J. L. Bargo shall be allowed ten (10) hours' pay at the foreman's time and one-half rate and Track Repairman W. D. Lewis shall be allowed six (6) hours' pay at the track repairman's time and one-half rate.

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 30 (Overtime) provides,, in relevant part, that:

- (f) The senior available men shall be given preference in the assignment of overtime work on their home sections.
- (g) Where work is required by the carrier to be performed on a day which is not a part of any assignment, it may be performed by an

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available extra or unassigned employee who will otherwise not have 40 hours of work that week; in all other cases by the regular employee.


The Claimants had greater seniority than the junior employees, who actually performed the disputed work on March 13, 1998. A careful review of the record indicates that the junior employees had performed such inspections on the workdays during the week that preceded March 13, 1998. As such, the junior employees constituted the regular employees pursuant to Rule 30(g). The Carrier therefore had a right to assign such junior employees to perform the disputed work.

The record confirms that the Carrier had regularly assigned the Claimants to work during the relevant time and that the Claimants were regularly working as well. As a result, the Claimants did not have a preferential right to perform the disputed work pursuant to the part of Rule 30(g) that provides protection for employees who did not otherwise have 40 hours of work during the applicable week.

This determination is consistent with the determination by the Third Division in Award No. 30915 (June 8, 1995) (Marx, Referee), which involved the same parties. In particular, Award No. 30912 implicitly recognized the possibility that the Carrier could raise Rule 30(g) in a timely and proper manner to support the assignment of certain work to junior employees who regularly perform specific work.

AWARD:

The Claim is denied.

  
Robert L. Douglas  
Chairman and Neutral Member

  
Donald D. Bartholomay  
Employee Member

  
Mark D. Selbert  
Carrier Member

Dated: 8/15/01