

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 116
Case No. 116

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 improperly recalled the fifteen (15) claimants listed below* in April, 1997 and then terminated their seniority when they failed to respond [System File 5(30)(97)/12(972051) LNR].

2. As a consequence of the violations referred to in above, the fifteen (15) claimants listed below* shall "...continue to hold their current seniority on the Nashville Division Track Subdepartment Seniority Roster and that the recall letters to each claimant dated April 1, 1997 or April 3, 1997 be removed from their personal files. ***"

*M. C. Holbert	R. R. Cauthen
T. G. Parker	T. A. Reed
L. D. Ashley	T. L. Kingma
R. W. Strange	J. W. Clements
J. W. Reed, Jr.	L. J. Flake
G. W. McDaniel	E. H. Page, III
T. W. Long	W. H. Harris
W. E. King	

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 22 (Return After Force Reduction) provides, in pertinent part, that:

(b) Cut-off employees will be required to return to the service in their seniority order to fill bulletined positions in the rank in which they were last in permanent service, on which no employee senior to them bids. Senior employees of the rank bulletined but serving in a lower rank and who bid on bulletined positions will be assigned in accordance with Rule 16(d).

(1) So as to require paint foremen or painters to take positions as bridge or carpenter foremen or carpenters, or vice versa.

(2) In calling men back who have not qualified as pile drivers, crane, or compressor operators, drawbridge tenders, pumpers, etc.

The foregoing is not intended in any way to interfere with the displacement or bidding rights of men of the classes mentioned, but applies only in requiring them to return to the service.

. . . .

(f) Employees will forfeit all seniority rights if they fail to return to work, or give satisfactory reason for not returning, within 10 calendar days from date of notification by mail or telegraph sent to the address last given.

A careful review of the record indicates that the Carrier sent the appropriate recall notices to the Claimants. As a result, the Carrier provided the proper and required notification to the Claimants.

The record omits any credible evidence that the Claimants responded to the recall notices. The record also omits any credible evidence that the Claimants provided any valid or satisfactory reason for not returning to the Carrier for their failure to respond to the recall notices. Under these specific circumstances, the evidence fails to substantiate that a

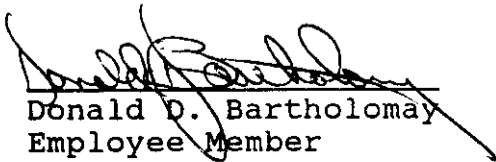
SBA 1110
Award 116

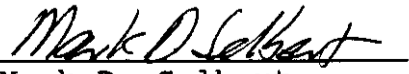
violation occurred.

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


Mark D. Selbert
Carrier Member

Dated: 8/15/01