

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 124
Case No. 124

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

CSX Transportation, Inc. (former Baltimore and Ohio
Chicago Terminal Railroad Company)

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1) The Agreement was violated when the Carrier assigned Welder L. Sanchez to perform overtime service of trackman's duties (flagging to protect track and construction along the track) at Mile Post 25 on the McCook Line, B&OCT Seniority District in Chicago, Illinois on March 14, 1998 instead of Track Repairman R. R. Perez [System File 1(16)(98)/12(98-1313) BOC].

2) As a consequence of the violation referred to in Part (1) above, Claimant R. R. Perez shall now "...be paid 10 ½ hours overtime for March 14, 1998 at the Foreman's rate of pay...."

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 General Rules that apply to the Indiana Harbor Belt Railroad and that cover the location of the present dispute provide, in pertinent part, that:

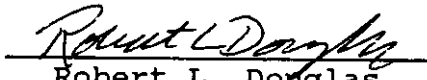
C. Required Examinations

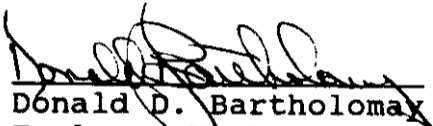
Employees whose duties require them to be qualified on the Operating Rules and Timetable must pass the required examinations. These employees must be re-examined on the Operating Rules annually, or as required at other times by a proper authority.

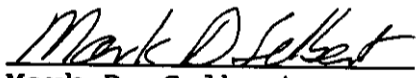
The record omits any probative evidence to prove that the Claimant possessed the necessary qualifications to perform the disputed work. In particular, the Claimant perforce acknowledged, in a letter dated February 14, 1999, the requirement that an employee performing the disputed work must pass a test concerning the operating rules. Although the Claimant presented appropriate documentation that he had passed the relevant test on October 14, 1994, the record omits any credible evidence that the Claimant had passed such a test within one year of the date covered by the Claim in the present matter. In the absence of the Claimant passing such a required test within one year of the date of the Claim, no basis exists to sustain the Claim.

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: 9-6-01