

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 97
Case No. 97

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 supervisor, Welding Instructor R. Roper, to operate a fork lift to transport Maintenance of Way material from the Welding Plant to the Freight House at Radnor Yard, Nashville, Tennessee on July 15, 16, 17, 18, 19, 22, 23, 24, 25 and 26, 1996 [System File 20(3)(96)/12(96-1694) LNR].
2. As a consequence of the violation referred to in Part (1) above, furloughed Rank 3 Machine Operator E. M. Cole shall be allowed eighty (80) 'hours' pay at his straight time 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:

This dispute involves a Claim, which the Organization properly filed in this instance, about the performance of scope covered work by an inappropriate person: a Welding Instructor. Rule 3 of the Agreement groups employees into different Subdepartments. The record substantiates that operating a fork lift under the facts and circumstances of the present dispute constituted the performance of scope covered work within the jurisdiction of the Track Subdepartment and that the Welding Instructor, who had occupied a position at the time in the Welding Subdepartment, lacked an entitlement to perform such work. As a result, the Carrier violated the Agreement by assigning the work to the

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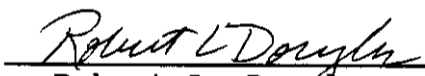
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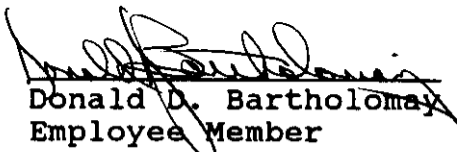
Welding Instructor. The Carrier therefore had an affirmative obligation to recall from furlough the Claimant, who was the senior cut-off employee, to perform the disputed work.

The record further specifies that the original Claim in this matter sought a monetary remedy for ten days, however, the Organization subsequently indicated that a willingness to reduce the requested remedy to cover nine days. As a consequence, the Claimant shall be allowed seventy-two (72) hours' pay at his straight time rate for the lost work opportunity caused by the failure of the Carrier to have recalled the Claimant from furlough for nine days.

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


Mark D. Selbert
Carrier Member

Dated: 5/14/01