

AWARD NO. 38
CASE NO. 38

PUBLIC LAW BOARD NO. 5392

PARTIES)
TO)
DISPUTE)

BROTHERHOOD OF LOCOMOTIVE ENGINEERS
CSX TRANSPORTATION, INC.

STATEMENT OF CLAIM

Claim of Road Engineer R. E. Faircloth (ID 156684) on April 5, 1992 for a basic day, account required to perform brake pre-test on a train other than that assigned.

OPINION OF BOARD

On April 5, 1992, Claimant was working Train F-707, one of three daily road switchers with a home terminal at Acme, North Carolina and assigned primarily to provide switching service for Federal Paper Board Company at Acme.

Acme is on the Carrier's Wilmington Subdivision. Rail traffic in and out of Acme is handled by through freight assignments operating between Wilmington and Hamlet, North Carolina. The placement of this traffic at Acme is handled by F-707.

On the date in question, Claimant made various switching moves for Federal Paper Board. Claimant was directed to proceed to

a storage track at Acme to make a brake pre-test on 42 cars lined up by other switchers for the through freight. Claimant did not place any of the cars involved in the test. Claimant performed the pre-test duties and filed this claim.

The relevant language is found in Article VIII, Section 3 of *Arbitration Board 458*:

ARTICLE VIII - ROAD, YARD AND
INCIDENTAL WORK

* * *

Section 3 - Incidental Work

Road and yard employees in engine service and qualified ground service employees may perform the following items of work in connection with their own assignments without additional compensation:

* * *

(d) Make head-end air tests

* * *

The key language is "in connection with their own assignments". We find the particular work in question was not "in connection

with [Claimant's] own assignments" [emphasis added].

Aside from the fact that Claimant worked a road switcher, Claimant had *nothing* to do with the cars he was ordered to test — he did not place those cars, another switcher did. On those limited facts, we believe the concepts set forth in *First Division Award 24856* to be controlling:

The instant case turns on the interpretation of the term, "in connection with their own assignments," in Section 3 of the 1986 Agreement. Carrier's interpretation is highly problematic. Carrier contends that as long as it assigns specified duties to an employee, those duties are in connection with the employee's own assignment. In other words, Carrier's interpretation gives it complete authority to define and change the employee's assignment from minute to minute. Such an interpretation strips the term, "in connection with their own assignments" of any meaning. The term is used in Section 3 as a term of limitation. However, under Carrier's interpretation, there is no limitation on what Carrier may require an employee to do without additional compensation. If that were the intended meaning of Section 3, then there would be no need to qualify it with the term, "in connection with their own assignments."

See also, the following question and answer addressed by the Informal Disputes Committee:

Q-3 Can a Road Engineer be required to make a head-end air test on a train other than the

train called to operate from the terminal?


A-3 No unless the other train is in connection with his own assignment.

Under the facts in this case, the arguments advanced by the Carrier would render the language "in connection with their own assignments" meaningless [emphasis added]. Testing the cars not touched by Claimant just was not Claimant's "own" assignment.


On a non-precedential basis, this claim shall be sustained.

AWARD

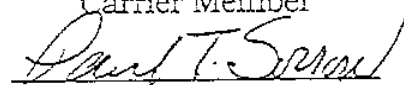
Claim sustained.



Edwin H. Benn
Neutral Member



Patricia A. Walden
Carrier Member



Paul T. Spradley
Organization Member

Jacksonville, Florida

Dated: 10/13/00