

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 35033
Docket No. SG-34865
00-3-98-3-575

The Third Division consisted of the regular members and in addition Referee Robert E. Peterson when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (CSX Transportation, Inc. (former Louisville and Nashville
(Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville & Nashville Railroad:

Claim on behalf of G. F. Vincent for payment of eight hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Agreement S-069-87, when it used junior employees instead of the Claimant to perform overtime work on September 20 and 21, 1997, and deprived the Claimant of the opportunity to perform this work. Carrier’s File No. 15(97-210). General Chairman’s File No. 97-SAV-18. BRS File Case No. 10628-L&N.”

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The claim on behalf of Signalman G. F. Vincent arises in a contention that the Carrier violated the April 14, 1987 Signal Shop Coordination Agreement (CSXT Labor

Agreement S-069-87) in having afforded overtime on September 20 and 21, 1997 to junior employees rather than to the Claimant as a more senior employee.

The claim also asserts that the Carrier violated "the present working Agreement Between the Former Louisville and Nashville Railroad Company and its employees represented by the Brotherhood of Railroad Signalmen, as amended." However, nothing of record shows the specific manner in which it is contended that such Agreement was, in fact, violated. This, notwithstanding that during the handling of the claim on the property the Carrier had stated:

"There could not possibly be a violation of the present Agreement between the Former Louisville and Nashville Railroad Company and its Employees Represented by The Brotherhood of Railroad Signalmen or CSXT Labor Agreement S-069-87, inasmuch as the Claimant does not work under the provisions of the former L&N BRS Agreement and the CSXT Labor Agreement was amended by the Second Shift Agreement in regard to overtime performed on rest days."

The record shows that there was an operational need to work two shifts on the two dates at issue, which were the Saturday and Sunday rest days at the shop. The Carrier, as it maintains was in accordance with applicable Rules, called the senior employees to work those shifts regardless of what shift they were working during the week. The Claimant worked both days on the first shift and was paid at the overtime rate of pay for a total of 16 hours.

Basically, it is contended that because Signalmen called to work the second shift were junior in seniority to the Claimant, the latter should instead have been permitted to work an additional four hours overtime on both days inasmuch as the Agreement provisions require that the Carrier offer overtime work to employees in seniority order. The four-hour time period at issue on each day apparently relates to the Hours of Service Act under which a Signalman may work up to 12 hours without rest.

Side Letter No. 8 to CSXT Labor Agreement S-069-87 reads in pertinent part:

"This will confirm our understanding that, when overtime work is available to hourly rated employees assigned to the consolidated signal shop, seniority order will govern in the offering of the overtime work in the work area involved and will be assigned to the senior employee if he so desires. It is

understood that the present work areas for purpose of overtime assignment are identified as wiring, relay repair and refurbishing.”

In support of its denial of the claim, the Carrier points to what is commonly referred to as the “Second Shift Agreement” which allowed it to establish a second shift at the Savannah Signal Shop, and wherein it is stated that any assignment of overtime work is to be in accordance with Side Letter No. 8, i.e., “without regard to first or second shift.”

There is no question that the language in dispute is not entirely clear as to how seniority would prevail when there is a need for employees to be called for two consecutive eight-hour shifts on a rest day. It does appear to the Board, however, that the Carrier placed a just, equitable and reasonable interpretation on the contract language in the manner in which it called the employees.

It is a well-established rule of contract construction that where, as here, the language at issue is susceptible of differing interpretation and meaning, that it be construed in a manner that would lead to just and reasonable results. Accordingly, the Board finds merit in the position taken by the Carrier in this dispute. We will, therefore, deny the claim.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of October, 2000.