

PUBLIC LAW BOARD NO. 7759

PARTIES TO THE DISPUTE:

Brotherhood Railway Carmen (BRC)  
Division of Transportation Communications Union (TCU/IAM)

A.F.L.-C.I.O.

and

CSX Transportation, Inc.

STATEMENT OF CLAIM:

1. The Carrier violated Rules 32 & 33 of the Controlling Agreement; when on May 5, 6, 12, 13, 19, 20, 21, 26, 27, 28 and 29, 2017, the Carrier improperly compensated Carman CJ Frank at the Carman's rate instead of the Lead Mechanic's rate.
2. Accordingly, the Carrier should now compensate Carman CJ Frank ID# XXXXXX eight (8) hours at the applicable Lead Mechanic's rate less the compensated Carman's rate (equivalent to \$.50 per hour per day) for each day of said violation, which represents the difference of compensation already received.

OPINION OF BOARD:

At issue in this case are Rules 32 and 33 of the Controlling Agreement. Those provisions read in pertinent part as follows:

RULE 32 – LEAD MECHANICS

In small gangs, not more than twelve (12) employees, a working mechanic may be bulletined as a leadman who will participate in and direct the work of other members of the gang and will be paid fifty (50) cents per hour over the highest paid mechanics he supervises.

**RULE 33 – RATES OF PAY**

...(2) Skill Differentials Article VII, November 27, 1991 National Agreement, effective 12/1/93)

(a) Journeymen Carmen, including upgraded mechanics who actually perform the work listed below shall receive a differential per hour above the minimum rate paid to journey Carmen at the point employed for each hour actually spent performing the listed work as set forth below.

1. Existing differentials paid to journeymen for performing lead mechanic work shall be increased to 50 cents per hour effective December 1, 1993....

Agreed Upon Guidelines for Administration of Increased Differentials

Q. Who is entitled to receive increased differentials?

A. Journeymen (including upgraded mechanics) who actually perform the listed work.

Q. How does the differential apply where the position is that of journeyman and some welding, lead mechanic or layout work is required?

A. When performing welding, lead mechanic or layout work for four (4) hours or less in any one day, employees will be paid the differential on an hourly basis with a minimum of one (1) hour; for more than four (4) hours in any one day, the differential will apply for that day.

As background, the Organization notes that the Carrier abolished Gang Foremen positions in the fall of 1987, and established Lead Mechanics positions in their stead. In its claim (above) the Organization maintains that, although the Carrier states it has eliminated the positions carrying the Lead Mechanic label for the 11:00 p.m. to 7:00 a.m. shift, the Claimant is still performing those duties, albeit without the title, and is entitled to the \$.50 per hour as provided in Rules 32 and 33 of the Controlling Agreement. The Organization points out that it has provided a signed statement by the Claimant outlining the duties he performed while supervising the other Carmen on his shift and insists that, notwithstanding the abolishment of

the leadman position, the duties remain and are still being performed, as anticipated by the Q&A section of Rule 33 (quoted above). Moreover, it disputes the Carrier's assertion that the tasks at issue are the responsibility of every man on a crew and not unique to the lead mechanic. The Agreement provides that the single person who is directing the work of the crew and acting as a lead mechanic should, in accordance with the above-quoted language, receive the differential rate based upon the number of hours in a shift they actually performed the duties of a lead mechanic. Moreover, while the Organization does not dispute that the initial instructions for the shift originate with the Yardmaster and/or Trainmaster, it is still the duty of the employee acting as lead mechanic to assure those instructions are carried out.

For its part, the Carrier insists that the Agreement had not been violated and argues that the Organization has provided no evidence that the Claimant actually performed "lead mechanic duties" on the dates cited. Moreover, it argues that the Organization has not shown that the Claimant would have been the qualified leadman bidder assigned to the leadman position on the claimed dates, had the leadman job actually been bulletined. The Carrier cites local Evansville management as stating that Claimant did not perform lead mechanic duties on the claimed dates. It also insists that if Claimant performed the tasks that his statement testifies to, they were *de minimus* and did not constitute a significant portion of his shift. Finally, the Carrier protests that all employees are responsible for progressing the work through their shift, which is considered "self-motivation" and not considered the sole duties of lead mechanics. Employees regularly discuss the progress of their work with fellow employees, including at job briefings and shift start-up meetings. Accordingly, the Carrier asserts, the tasks described by Claimant in his submitted list of Lead Mechanic responsibilities are not unique to a single person and do not

qualify him for differential pay as a Lead Mechanic.

The Board has reviewed the record and the arguments in this case with great care. At no point does the Board dispute the Carrier's right to abolish positions on the properties, where the work performed by those positions no longer exists, or has been so reduced that the remaining work is minimal and not sufficient to warrant a dedicated position. In the present case, however, the Claimant has testified, without sufficient counter-testimony (for example, from his fellow crew members) that on the dates in question he regularly performed the duties customarily performed by designated lead mechanics on the other shifts each day. Thus, it appears to the Board that the work associated with lead mechanic has not, in fact, disappeared.

In the history of the railroads, as advancements such as remote computers, electrical bar scanner for rail cars and such have been legitimately added to all carriers' properties for efficiency and cost-saving purposes, certain tasks – long performed by various organizations – have truly disappeared. That does not appear to be the case here. Abolishing a position without truly eliminating the tasks involved calls into question how those remaining tasks are to be performed. If they are evenly scattered among a number of crew members in the guise of "teamwork" as the Carrier implies, then the Carrier may have a valid argument that the tasks associated with the position abolished have been sufficiently scattered that no one person is performing them. That is not the circumstance that the Board finds here. Accordingly, we find that the instant claim should be sustained.



AWARD

Claim sustained.

*Elizabeth C. Wesman*

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Elizabeth C. Wesman, Chairman

*W.E. Griener*  
Organization Member

*John E. Mandy*  
Carrier Member

Dated 8/7/18