

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13301
Docket No. 13104
98-2-96-2-3

The Second Division consisted of the regular members and in addition Referee Ekehard Muessig when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad Company)

STATEMENT OF CLAIM:

- "1. That the Louisville and Nashville Railroad company, (now a part of CSX Transportation) was in violation of the contractual rights and the personal safety rights of Bedford Park, IL Carmen R.R. Giera, et al., to display and remove Blue Signal protection per Rules 29, 30, and 113, when on August 26, 1991 and continuing through December 6, 1991, Carrier instructed and/or allowed a CSX Intermodal Company supervisor, Tim Gray, to perform claimant's work of removing Blue Flag protection on tracks where claimants were working on, under, and about freight cars.**
- 2. Carrier should now be ordered to compensate Claimants identified in general chairman's appeal dated November 11, 1991, seven hundred-four dollars (\$704.00) each, as proposed settlement of claims by organization during conference with Carrier March 24, 1992."**

FINDINGS:

The Second 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.

On September 6, 1991, a claim was submitted on behalf of 23 Carmen in which the Organization contended that, commencing August 26, 1991, Supervisors removed blue signal devices from tracks. The Organization asserts that the removal of blue signal devices is work exclusively reserved by Agreement to the Carmen craft.

Following numerous time limit extensions after the initial claim had been completed, the parties again conferred on March 16, 1995. When they could not agree, the claim was advanced to the Board for final adjudication.

The Carrier's basic defense is that when a Supervisor under whom the Carmen are working installs or removes a blue signal device, it does not constitute a violation of Blue Flag Protection Rules. The Carrier submits that this function i.e., removal of blue signal devices from tracks, is not mentioned in the Carmen's Classification of Work Rule 104. Moreover, the Organization has not shown that this work has been performed exclusively by Carmen or other classes of employees. Indeed, the Carrier contends that Electricians, Machinists, Supervisors and others remove blue flag protection.

The Board has given careful consideration to the numerous arbitral decisions relied upon by the parties. When the facts of this case are considered in light of these decisions, the Board has concluded that we need not rule whether the work is reserved exclusively to the Carmen craft. In this case, as best we can determine from the record, the work involved, perhaps five minutes, is such a slight amount of time that it falls under the de minimis principle. Many Awards in this industry have recognized this principle, as it applies to Supervisors performing small amounts of work. See Second Division Awards 7587, 7983 and 8778.

AWARD

Claim denied.

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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 Second Division

Dated at Chicago, Illinois, this 6th day of August 1998.