

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13704
Docket No. 13612
03-2-01-2-16

The Second Division consisted of the regular members and in addition Referee Nancy F. Eischen when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Delaware and Hudson Railway Company, Inc.

STATEMENT OF CLAIM:

- “1. That on July 31, 1999, Signal Maintainer Frank Schuler was dispatched to the Beech Haven Radio Cabin site.
2. That at this location Signal Maintainer Schuler performed work that is currently and has historically been performed by Communication Technicians on the Delaware and Hudson Railway property.
3. That work of this nature is covered within Article 44.10 Electrical Workers Special Rules - Communication Technicians.
4. That therefore, the System Council 7 of the IBEW is requesting that the Claimant be compensated for five (5) hours at overtime rate of pay for the time that Signal Maintainer Schuler spent responding to the trouble call at Beech Haven Radio Cabin site.”

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.

The Organization alleges that on July 31, 1999 the Carrier violated Rule 44.10 of the Agreement when it called Signal Maintainer F. Schuler to go to the Beech Haven Radio Cabin to provide access to a Bell telephone employee so that the telephone employee could repair Bell equipment.

The Organization maintains that the "intent" of Maintainer Schuler's overtime call was to inspect, test and repair the radio at that location and that the work in dispute accrues exclusively to Communications Technicians represented by the Organization.

Specifically, in a September 20, 1999 letter, the IBEW Local President stated that:

"On July 31, 1999 Signal Maintainer Frank Schuler was dispatched to the Beech Haven Radio Cabin sight. At this location Maintainer Schuler checked for power to the cabin, tested the fuse to the batteries and reset the cabin equipment while awaiting the arrival of a Bell Telephone Technician. This work is currently and has historically been performed by Communications Technicians on the D&H Railway property. Work of this nature is covered within Article 44.10 Electrical Workers Special Rules - Communications Technicians. Inspecting, testing and repairing radio equipment is work exclusively accruing to Communications Technicians. Attached is a copy of the report submitted by Signal Maintainer Schuler stating the repair work performed. Clearly there was ample time to contact the next available communications technician to respond to this call.

Therefore this Union is asking for five (5) hours at the Claimant's overtime rate of pay for the time that Signal Maintainer Schuler spent responding to the trouble call at the Beech Haven Radio Cabin."

The Carrier denied the claim asserting that Signal Maintainer Schuler was called only to provide access to a Bell Telephone Technician so that he could repair his equipment. Specifically, the Carrier maintained the following:

"In response to your claim, the D&H Railway called Signal Maintainer Schuler to provide access for Bell Telephone Technician to repair his equipment which Bell Tel. determined was in failure from testing they had performed from their facilities to the site. Mr. Schuler also checked to see that commercial power was on by checking fuses. I was confused in understanding how Mr. Schuler had reset the wayside equipment, in that I was not aware of any reset device on the equipment. I have since learned he pulled the power plug from the receptacle on the wall and then plugged it back in. The above three functions Mr. Schuler performed in the opinion of the Carrier, do not reflect work belonging exclusively to any one craft."

For his part, Signal Maintainer Schuler reported the following with regard to his activities on July 31, 1999:

"At approx. 1600 Dave from the Trouble Desk called to let the Bell man in the Cabin at Beech Haven but not for two hours until he'll be there.

Went to the Cabin checked the power, the fuse in the batteries. Hit the reset on the cabinet.

Everything looked ok. The Bell man came and said the office man said they were out of tolerance.”

The Organization maintains that the “intent” of Maintainer Schuler’s overtime call was to inspect, test and repair the radio at that location and that the work in dispute accrues exclusively to Communications Technicians represented by the Organization.

For its part, the Carrier asserts that Schuler was dispatched to the Beech Haven Radio Cabin site simply to unlock the door so that the Bell Telephone Technician had access to Bell Telephone equipment so that the Technician could repair same.

Careful review of this record reveals that Signal Maintainer Schuler was notified to report to the Beech Haven Radio Cabinet to unlock a door so the Bell Telephone Company Technician could work on the radio cabinet. While he was awaiting the Technician’s arrival, Schuler, without direction or approval from the Carrier, “checked the power” and “hit the reset on the cabinet.” Had the Signal Maintainer been directed to install, assemble, dismantle, inspect, test, adjust, repair or maintain radio communications equipment the call would arguably have accrued to an IBEW - represented employee. However, in the circumstances, merely unlocking a door to provide access to the radio cabinet does not constitute work that accrues exclusively to any one craft.

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 Second Division

Dated at Chicago, Illinois, this 31st day of January, 2003.