

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(CSX Transportation, Inc. (former Seaboard Coastline
Railroad Company)

STATEMENT OF CLAIM:

1. The CSX Transportation Company violated the Controlling Agreement, effective January 1, 1968, as amended, in particular Rule 1(a) and Rule 29(a) when carrier assigned others than regularly employed as Communications Maintainers (SCL) represented by the International Brotherhood of Electrical Workers to work as per Rule 1(a) of the Controlling Agreement.

2. That accordingly, the CSX Transportation Company be ordered to grant Communications Employee W. M. Davis, ID# 174194, two hundred and forty (240) hours pay at the pro-rata hourly rate based on work performed by L&N communications employee, Mike Morris and Ronny Moates between July 25 and September 1, 1988 was work reserved to him by the SCL Communications Agreement.

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 employees 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 waived right of appearance at hearing thereon.

As Third Party in Interest, the Transportation Communications International Union was advised of the pendency of this dispute, but chose not to file a Submission with the Division.

The Organization contends that Carrier violated Rules 1(a) and 29(a) of the Controlling Agreement, when L & N Communications employees performed work claimed by the Organization. Specifically, the disputed work referenced in the September 6, 1988, statement of claim involved the installation and testing of CKT's into the Conference Bridge for the Centralization of dispatching operations. The time period of the claim extends from July 25, 1988,

through September 1, 1988. Carrier responded that said work was in addition to existing equipment and not covered by the Controlling Agreement. It also maintained the work was not exclusive to communications workers. As the claim progressed this line of contention was consistently pursued by both sides and the documents submitted by the Organization including attestation letters from IBEW employees echoed the same information as contained in a related companion case.

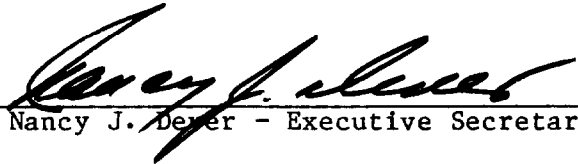
In considering this case, particularly within the constraining context of the evidence submitted the Board of necessity, must find for Carrier. The record is bereft of solid evidence establishing an unmistakable nexus between the disputed work and the cited protective Rules. As we pointedly noted in numerous cases before this Board, Petitioner has the burden of proof on all essential aspects of its claim, but in this case, the required proof burden was not met. Regrettably, for lack of such evidence, we must deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 1st day of April 1992.