

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23479
Docket Number SG-23841

John B. LaRocco, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad signalmen
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Coast Line Railroad:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope Rule, when it permitted or required Mr. F.M. Cutts, Assistant Supervisor of Signals and Communications, to perform test of signal code line at Contentnea, N. C. on June 4, 1979.

(b) Carrier should now compensate Signal Maintainer A.M. Ezzell two hours (2) and forty minutes (40) at his time and one-half rate of pay. (General Chairman file: 33-A MEzzell-79. Carrier file: 15-1(79-19) J)"

OPINION OF BOARD: The Organization brings this claim on behalf of a signal maintainer who was allegedly deprived of work specifically reserved to signal employees under the Scope clause when the Assistant Supervisor of Signal 13 and Communications purportedly performed a "DB" and frequency test on the code line at Contentnea, North Carolina on June 4, 1979. The Carrier concedes that the supervisor took transmission level readings on the line in the field but it emphatically denies that such work constitutes testing or is otherwise protected by the Scope clause. According to the Carrier, the supervisor was making a routine check consonant with his supervisory duties.

The record contains a substantial factual dispute. The claimant asserts that the supervisor instructed him to meet the supervisor at the location of the suspected line trouble. When the claimant arrived at the designated place, the supervisor had already completed the work. Conversely, the Carrier asserts that the supervisor only casually mentioned to the claimant that he was going to take some readings in an attempt to pinpoint the source of intermittent trouble with the code line. However, we need not resolve this factual discrepancy to decide this case since we have concluded that the disputed work was protected by the Scope provision.

The Scope clause of the applicable agreement states that only employees covered by the agreement may engage in, "...inspecting, testing, maintenance and repair, either in signal shops or in the field, of all signalling, recognized signalling systems, . . . together with all appurtenances, devices, apparatus and equipment necessary to said systems..." The Organization must zealously safeguard work and assignments which are reserved to signal employees under the Scope clause. On the other hand, the Carrier's supervisor has an obligation to direct the work force, assign personnel,

determine if repairs are needed and how repairs are performed within the constraints of the labor agreement. The line dividing work reserved exclusively to signal employees and a supervisor's duties is often blurred (as it is in this case). Thus, we must decide each dispute on a case by case basis by balancing the obligation of the supervisor to check on the operation of equipment with claimant's right to perform physical diagnostic work.

While the balance of rights is almost equal in this case, we rule that when the supervisor took the transmission level readings, he performed work which constituted equipment inspecting and testing within the meaning of the Scope clause. The supervisor performed work which went beyond his duties as a supervisor and he infringed on claimant's right to perform physical diagnostic work. Before performing the work, the supervisor knew the code line was not operating properly so he was making more than a routine check of the signal system.

Under the circumstances, claimant is entitled to two hours, forty minutes of pay at the straight time rate in effect on June 4, 1979.

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

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen

Executive Secretary

Dated at Chicago, Illinois, this 8th day of January 1982.

