

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(The Chesapeake and Ohio Railway Company
(Pere Marquette District)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Chesapeake & Ohio Railway Co. (C&O PM):

(a) Carrier violated and continues to violate the parties' Schedule Signal Agreement, particularly Scope Rule 1 when it issued Communication Bulletin No. MC-32-84 dated November 30, 1984 amending the assigned territory of Communication and Signal (C&S) Force 1816 headquartered at Marlette, Michigan to include Signal work within limits of recently acquired Port Huron and Detroit Railroad Company (PH&D) effective December 15, 1984 when such work exclusively accrues to Carrier's Signal employees.

(b) Carrier now be required to pay Signal Maintainers working independently R. J. Smith and R. M. Dean at their applicable rate of pay for all work assigned and/or permitted to be performed by Communication employees who are not covered by the parties' Signal Agreement, such work to be divided equally between the two Claimants. Inasmuch as this is a continuing violation, said claim to be retroactive to December 15, 1984 and to continue until such time as Carrier takes necessary corrective action to comply with the violation cited in part (a) above. (General Chairman File: 84-37-PM Carrier File SG-758)"

FINDINGS:

The Third 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.

Form 1
Page 2

Award No. 27976
Docket No. SG-27023
89-3-86-3-65

The claim herein involves Carrier's alleged violation of the Scope Rule when signal work was improperly assigned to the C&S Maintainer headquartered at Marlette, Michigan.

In a dispute such as this, the Organization has the burden of proof to clearly show that a violation has occurred. The facts as presented are simply inadequate to make a reasonable judgment that Carrier violated the Agreement. Accordingly, the claim is dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 29th day of June 1989.