

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28392
Docket No. SG-27944
90-3-87-3-711

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Kansas City Terminal Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Terminal Railway Company (KCT):

Claim on behalf of R. E. Bayless, L. E. Mitroff, and V. E. Jones, for an amount equal to the actual amount of work performed by Southwestern Bell Telephone Company employees, beginning on or about May 1, 1986, and continuing until this dispute is settled, account of Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope Rule paragraphs (g) and (h), when it removed paging units from service and purchased pagers and service from Southwestern Bell Telephone Company. Carrier file SG.5.86.180."

FINDINGS:

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

The carrier or carriers and the employe 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.

This Claim involves the work of servicing and maintaining radio-telephone paging devices which Carrier issues to various managers and employees so they may be contacted when away from the office and/or outside regular assigned hours.

From 1978, until Claim date, Carrier purchased and owned all such paging devices it utilized. The work of servicing and maintaining these Carrier-owned paging units was assigned to employees represented by the Organization. The Scope Rule of the Agreement provides:

"SCOPE

This Agreement covers the rates of pay, hours of service, and working conditions of all Signal & Communication Department employes classified herein engaged in the construction, repair, installation, inspection, testing or maintenance, either in the shops or in the field, of the following:

(a) All Signals and Signaling systems; Traffic and CTC control systems; Train stop and train control systems; Interlocker and Interlocking systems; Car retarder and car retarder systems, including inert retarders; Cab signaling and systems, except on rolling stock; Highway crossing protective devices and systems.

(b) All hot box, slide, flood and dragging equipment devices and systems; Electric switch targets, including wires, battery and lens; Spring switches within signal or interlocking territory; Electric switch locks; Track occupancy indicators; All track bonding including bonding for static electricity; Electric, air or other types and kinds of switch machines including Nos. 1 and 2 insulated rods, switch point protectors on switches within signal and interlocking limits, gage rods, tie plates, rail braces and other devices and equipment used in connection therewith; Electric switch heaters and electric controls on gas switch heaters.

(c) High and low voltage lines, overhead and underground cables and lines, including poles and fixtures; Wood, fibre, iron or clay conduits and conduit systems; Transformers, arresters, fuse boxes, fuses, reset switches, and distributing blocks; Lighting of all signal and communication houses, cases and panels or panel boards; Yard lines and lights except those yard lights maintained by Union Station Maintenance Forces under train sheds and Union Station parking lot and by Coach Yard Forces in South Coach yard and roundhouse area; Power supply from transformers to air conditioner outlet, including fuse boxes and fuses used in connection with train air conditioning.

(d) Storage battery plants with charging equipment, substations, current generating plants and facilities, compressed air generating plants and equipment, including stand-by equipment and devices, together with air lines and other facilities used in connection with such systems and devices, except present main power house facilities. Pipe lines and pipe line connections, cranks, compensators, foundations and supports for the equipment and systems covered by this agreement. Switchboard equipment and devices.

(e) Carpenter, painting, concrete and form work of all classes in connection with the installing, repairing, and maintenance of the above systems, devices and equipment. Handling and installing of all concrete, metal, or wood relay houses, cases and cantilever signals. All digging and back filling. Operation of all machines and equipment used by the Signal and Communication department in the installation, construction or maintenance of the named systems, devices and equipment.

(f) Detector device connected to or through signal and interlocking systems covered by this agreement.

(g) All radio, radar, telephone, teletype, perforators-reperforators, television, D.C. Clocks, talk-back and public address systems, Communication systems, telegraph systems and communication office equipment.

(h) All appurtenances and appliances used in connection with any of the above named systems and devices as well as all other work in connection with the installation, construction, repair, recondition, inspection, test and maintenance of the above named systems, devices and apparatus that has been recognized as signal or communication work in the past.

(i) The following classifications include all persons performing the work described by the Scope of this Agreement."

In March 1986, Carrier replaced and upgraded some of the Carrier-owned paging devices by leasing new units from Mobile Radio Communications, Inc. (MRC). Under the terms of the Lease Agreement, these units remain the property of MRC, which retains the responsibility to service and repair the leased units. So far as the record before us shows, employees represented by the Organization continued to service the Carrier-owned paging devices but assert in this Claim Scope Rule entitlement also to the service and repair work on the leased units.

A host of Awards holding that a line of demarcation exists between Agreement-covered work on Carrier-owned equipment and the equipment, materials or chattels of another party which is utilized by Carrier under a "lease-use" arrangement requires the denial of this Claim. See Second Division Awards 2803, 2823, 3133, 3276, 3226. Third Division Awards 14888, 14973; PLB 2766, Award 15; SBA 570, Awards 466 and 631.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1990.