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NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 28879  
Docket No. SG-29223  
91-3-90-3-108

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: ( (Brotherhood of Railroad Signalmen  
(CSX Transportation, Inc. (Seaboard System Railroad (SCL))

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Railroad (SCL):

On behalf of R.D. Platt et al., for payment of 88 hours pay each at their respective rates of pay at the pro-rata rate of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, the Scope Rule, when it allowed or permitted non-Agreement personnel to assemble or install retarder cylinders on ties to be used at Rice Yards." Carrier file 15(89-42). BRS file Case No. 7917-SSR-SCL.

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.

This scope dispute involves the purchase of forty-four (44) master retarder cylinders complete with cross ties for use at Rice Yard, Waycross, Georgia. After delivery, the equipment was unloaded by Claimant Signal Maintainers on March 1 and 2, 1989, and installed by a System Signal Construction Gang. The Organization contends the pre-assembly of car retarder components is a violation of the Scope Rule. Apparently, both parties acknowledge the disputed work involves the bolting of forty-four (44) retarder cylinders to cross ties. The Carrier argues the purchase of pre-assembled signal equipment is supported by prior Third Division Awards. Essentially, the Carrier maintains the Scope Rule does not restrict the purchase of pre-assembled signal equipment.

In Third Division Award 23020, the purchase of pre-assembled car retarders was also involved. It was found that the disputed work was completed prior to the time the Carrier acquired possession of the equipment. Commenting on the Scope Rule, the Board stated in relevant part:

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"Here these rights have not yet attached. In short, the purchasing of a finished product, in the circumstances presented here, cannot be viewed as the contracting out or the farming out of bargaining unit work.

This Board has consistently held that Carrier may purchase assembled equipment without violating the Scope Rule. See, for example, Awards 5044, 21824."

This Board has reviewed Award 21824, as well as Award 21232 cited in Award 21824, and adopts the reasoning of those Awards, which hold the Agreement does not apply and the rights of the workers do not attach until the Carrier takes possession on the property.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of July 1991.