

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(CSX Transportation, Inc.  
(Seaboard System Railroad (formerly L&N))

STATEMENT OF CLAIM: "Claim of the General Committee, Brotherhood of Railroad Signalmen on the Seaboard Systems Railroad (formerly the L&N):

On behalf of the five senior furloughed employees on the Evansville Seniority District -

R. L. Gaddis, Foreman  
A. D. Daffron, Lead Signalman  
M. W. Deering, Signalman  
D. R. Clary, Signalman  
A. T. Spicer, Signalman

for sixty (60) hours each at their respective rates of any account System Signal Construction Gang 7X46 performing signal construction work on Evansville Seniority District #7 on January 9, 10, 11, 12, 19 and 20, 1988 after Evansville Division Signal Gang #3 was abolished by bulletin ES-6006 dated December 30, 1987, allegedly in violation of Rules 30(a) and 51(a)." Carrier file 15-51 (88-19)

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.

Claimants were employed by the Carrier as Signalmen; held seniority on Evansville Seniority District No. 7; and were furloughed as a result of the abolishment of Evansville Division Signal Gang No. 3 on December 30, 1987.

The dispute in this case involves the Carrier having allowed System Signal Construction Gang 7X46 to perform signal construction work on Seniority District No. 7 which involved the replacement of existing grade crossing warning devices at U.S. Highway 60 in Owensboro, Kentucky, on January 9, 10, 11, 12, 19 and 20, 1988, rather than having assigned that work to the Claimants, who previously had performed work similar to the work in question at other locations within District No. 7 before being furloughed.

The Organization filed a claim maintaining that system gangs, such as 7X46, are limited to construction work on new installations and certain emergencies, not on existing systems. The Organization further contends that district signal forces, such as the Claimants were a part of, have a prior right to signal work on their respective district over employees from any other district and over system forces. Thus, the Organization contends that the Carrier violated Rules 30(a) and 51(a).

The Carrier denied the claim on the grounds that the work in question was not just routine, but a major upgrading of existing equipment, including the installation of new parts, and that system signal construction gangs are permitted to perform signal construction work on all L&N Seniority Districts. The Carrier maintains that it has the right to assign work in any manner it chooses so long as there are no Agreement restrictions thereto. The Carrier also maintains that the Claimants were furloughed and there was nothing precluding the system gang from performing the work in question.

This Board has reviewed the record and we find that the Carrier did not violate the Agreement when it assigned the work in question to a System Gang after the Division Gang was abolished.

This question of the Carrier's right to utilize System Gangs and Division Gangs under Rule 51(a) has been presented to the Board on a variety of occasions. (See Third Division Awards 13776, 21064, and 25053.) The bottom line on all of those Awards is simply that the Carrier is not restricted, as the Organization alleges, from utilizing a System Gang to perform work on a construction project on Seniority Districts on which there are furloughed Division employees.

The Organization has not met its burden of proof that the Carrier improperly assigned the work in question. Therefore, the claim must be denied.

A W A R D

Claim denied.

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Award No. 29356  
Docket No. SG-28764  
92-3-89-3-148

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Devel - Executive Secretary

Dated at Chicago, Illinois, this 25th day of August 1992.