

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 31748  
Docket No. SG-31938  
96-3-94-3-306**

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

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Consolidated Rail Corporation**

**STATEMENT OF CLAIM:**

**"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (Conrail):**

**A. Claim on behalf of R. Gourley, G.M. Roper, M.S. Links, B.K. Cushman, D.J. Blakely and D.W. Fitt for payment of 24 hours each at the straight time rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it utilized an outside contractor to perform the covered work of constructing a signal foundation at Terre Haute, Indiana, on July 7, 8, and 9, 1992, and deprived the Claimants of the opportunity to perform this work.**

**B. Claim on behalf of R. Gourley, G.M. Roper, M.S. Links, B.K. Cushman, D.W. Fitt and D.A. Yates for payment of 40 hours each at the straight time rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it utilized an outside contractor to perform the covered work of installing conduit for the signal system at Terre Haute, Indiana, on August 14 and 15, 1992, and deprived the Claimants of the opportunity to perform this work. Carrier's File No. SG-571. General Chairman's File No. RM2449-41- 593. BRS File Case No. 9386-CR."**

**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 or employee 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 were given due notice of hearing thereon.

This dispute involves two separate claims involving two separate allegations of wrongdoing which allegedly occurred during two separate time periods. These two claims were combined by the Organization in its filing Notice to this Board. The first of the two claims originated in a letter from the Organization dated September 1, 1992. That claim was denied by Carrier on October 28, 1992, but was not further appealed by the Organization until January 12, 1993, which is beyond the allowable 60-day time limit for handling claims. The second claim originated in a letter from the Organization dated October 12, 1992. That claim was denied by Carrier on November 13, 1992, but was never appealed to Carrier's highest appeals officer. In their presentation of these two disputes to the Board, the Organization offers no rebuttal or contradiction to Carrier's assertions in this regard. Rather, only the merits issues are argued by the Organization before the Board.

In regard to the claim described in Paragraph "A" of the Statement of Claim *supra*, the on-property record reveals that the disputed work was a part of the State of Indiana's construction of a new bridge over the Wabash River. The ground on which the disputed work was performed was owned by the State. The contract which the State entered into for the performance of the disputed work was not subject to any control by the Carrier and therefore was not under Carrier's jurisdiction nor was such work covered by the applicable Scope Rule. Third Division Awards 30417 and 30618, among others, support this position.

Inasmuch as the claim described in Paragraph "B" of the Statement of Claim *supra* was not handled in the required manner during the on-property progression of the dispute, the Board need not concern itself with the fact situation which existed in that instance.

It is the Board's conclusion in this case that not only have the time limits for claim handling as well as the claim handling procedures been violated by the Organization, but also that the work here in dispute is not covered by the agreed-upon Scope Rule. Therefore, the claims have no merit and they are denied.

**AWARD**

**Claim denied.**

**ORDER**

**This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division**

**Dated at Chicago, Illinois, this 24th day of October 1996.**