

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32402
Docket No. SG-33005
97-3-96-3-415

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

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad Company)

STATEMENT OF CLAIM:

"Claims on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville & Nashville Railroad:

A. Claim on behalf of G. E. Newman, C. L. Womack and T. W. Adams for payment of 16 hours each at the straight time rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it utilized other than covered employees to wire and construct highway crossing signal equipment, and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 15(95-217). General Chairman's File No. 95-SYS-105. BRS File Case No. 9726-L&N.

B. Claim on behalf of G. E. Newman, C. L. Womack and T. W. Adams for payment of 16 hours each at the straight time rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it utilized other than covered employees to wire and construct highway crossing signal equipment, and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 15(95-218). General Chairman's File No. 95-SYS-106. BRS File Case No. 9727-L&N."

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 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.

The issue at bar is whether the Carrier violated the Scope Rule of the Agreement when it directed or instructed an outside contractor to perform protected work. The Organization alleges that on various dates the Carrier permitted employees of Burco Corporation to pre-assemble and pre-wire signal mechanisms, gates, and bells. It argues that the work disputed had been previously performed by Signal Gangs and was clearly protected by the Scope Rule which specifically refers to "construction, installation... of... power operated gate mechanisms; automatic or other devices used for protection of highway crossings;...."

The Board reviewed the claim and finds the Carrier's defense on point. The Carrier stated that it neither directed, nor instructed any outside contractor to perform the disputed work. The Carrier argued that it purchased signal equipment from a catalogue. The Board has a long established history of revisiting this issue and finding that the Scope Rule does not restrict the Carrier in the manner herein disputed. Certainly there is nothing in the language of the Rule which limits the Carrier to purchase only equipment which is not pre-assembled and pre-wired. The claim has no merit and must be denied. See Third Division Awards 32058, 32057, 28879, 28648, 21824, 21232; Second Division Awards 13038, 12217; Public Law Board No. 5616, Award 18; Public Law Board No. 5024, Award 2; Public Law Board No. 3781, Award 35; Special Board of Adjustment No. 570, Awards 899, 541, 530, 436.

AWARD

Claim denied.

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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 30th day of December 1997.