

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33155
Docket No. SG-33480
99-3-96-3-1041**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (B&O):

Claim on behalf of R.D. Elstun, T.L. Fessel, F.H. Wells, L.A. Yeager, and R.E. Prevo for payment of an amount equal to the hours worked by maintenance forces on Signal Construction Project A16548, account Carrier violated the current Signalmen’s Agreement, particularly Agreement No. 15-18-94, when it used maintenance forces to perform construction work. Carrier’s File No. 15(96-11). BRS File Case No. 10003-B&O.”

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 Claimants in this case are the members of System Signal Construction Team 7X14. Claimant R. D. Elstun, who is the Local Chairman of the Organization, filed this claim on behalf of himself and the other members of his System Signal Construction Gang after the Carrier assigned BRS-represented Signal Maintenance employees from the St. Louis Division to perform certain unspecified work on Project No. A16548. The Carrier's Director Employee Relations denied the claim by letter of March 4, 1996 reading, in pertinent part, as follows:

"This refers to your letter of January 8, 1996, received in this office on January 17, 1996, appealing claim in behalf of R. D. Elstun, ID# 518930, T. L. Fessel, ID# 188662, F. H. Wells, ID# 182648. L. A. Yeager, ID# 320443 and R. E. Prevo, ID# 188061, for an unspecified payment for September 14, 1995, account St. Louis Division Maintenance employees allegedly performed Signal Construction work at some unspecified date.

We are unable to determine from your appeal exactly what it is that you are claiming. You do not identify the employee or employees whom you allege were utilized to perform 'the construction work'. You do not specify the remedy sought in this case, nor do you say what work was allegedly performed. In short, the appeal is too vague to qualify as a valid claim.

You complain that 'the Division maintenance employees will not provide you with the correct date, or hours worked.' After reading your appeal, I can readily see why. It appears that you simply allege that something happened and request that the Carrier develop your claim for you. It is apparent that the system simply does not work that way.

Initially, you must show that some action of the Carrier violates some provision or Rule of the Agreement. In this case, you have not shown anything. The appeal is nothing more than naked assertions and do not qualify such as a valid claim.

Based on the vagueness and unsupported assertions contained in your appeal, the claim is declined in its entirety."

The above-referenced defects in the claim were not rectified until November 2, 1996, some five months after the claim had been denied following the claims conference in June 1996. Leaving aside the procedural objections raised by the Carrier, the claim

must be denied on its merits. The Organization's position in this case is based on its reading of the definition of the term "construction work" in CSXT Labor Agreement No. 15-18-94. The definition reads:

"Construction Work - That work which involves the installation of new equipment and systems and the major revision of existing systems, and not that work which involves maintaining existing equipment or systems. Replacing existing systems as a result of flood, acts of God, derailment or other emergency may also be construction work."

Although CSXT Labor Agreement No. 15-18-94 specifically defines construction work, nothing therein expressly or by reasonable implication exclusively reserves construction work to System Signal Construction Gangs to the exclusion of Signal Maintenance Gangs. On its face, there is no explicit reservation of construction work for System Signal Construction Gangs in that definition. Based primarily upon the lack of any proof of a violation of the cited Agreement language, this claim is 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 25th day of March 1999.