

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35173
Docket No. SG-35197
00-3-99-3-61**

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 Louisville and Nashville
(Railroad Company)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Co. (former Louisville & Nashville Railroad):

Claim on behalf of all employees assigned to Signal Maintainer positions in Seniority Districts 1, 4, 7, 9 and 10, for payment of one hour at the time and one-half rate for each highway grade crossing signal installation on their respective territories, account Carrier violated the current Signalmen’s Agreement, particularly Rules 1, 31 and 32, when it used outside forces to install signs at the crossings, from December 25, 1997 to February 9, 1998. Carrier’s File No. 15(98-68). General Chairman’s File No. 98-L&N-3. BRS File Case No. 10759-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.

This claim is one of a myriad of identical claims (except for the districts, dates and names of the Claimants) filed by the Organization in protest of the subcontracting of grade crossing sign work by CSXT on its various constituent properties during 1997. In denying the lead case for failure of proof on October 25, 2000, the Board held as follows in Third Division Award 35039:

“This is one of numerous claims filed by the Organization claiming the Carrier violated the parties’ Scope Rule when it engaged a contractor to install signs on signal equipment.

The record reveals that in 1997 the Carrier began a program of positioning signs at grade crossings giving the phone number of the Carrier’s dispatchers. The signs alerted the public to call if a hazardous situation occurred at the crossing, such as a stalled truck on the tracks. The outside contractor fabricated and installed the signs. The signs were attached to grade crossing equipment at crossings where such equipment was located. Where no grade crossing equipment existed the sign was installed as a stand alone sign. This claim only pertains to the signs attached to grade crossing equipment such as gates or flashing signals.

One thing that is clear is that the signs do not activate any signal equipment, nor are there any wires connected to the signs.

The Organization bares the burden of proving its contention that the Agreement was violated. The Carrier argued that the work is not covered by the Scope Rule. It cited several Awards to support its case. Among them is Third Division Award 23481 wherein the Board held:

‘... the Carrier argues that passive traffic signs can hardly be considered integral to the Carrier’s highway grade crossing protection system so such signs are not appurtenant to the signal system. Lastly, the Carrier asserts that since the Scope Rule does not refer to passive traffic signs, the Organization must demonstrate (and it has failed to do so) that the disputed work has historically and

traditionally been performed by signal employees on a systemwide basis.

The signs in dispute are designed to warn and inform oncoming motorists concerning the number of tracks at a railroad crossing or to indicate to the motorist that he is at a grade crossing. The issue is whether these particular signs are appurtenances to highway railroad grade crossing protection systems within the meaning of subparts (A) and (C) of Rule 1.

To demonstrate that the signs are appurtenances specifically covered by Rule 1, the Organization must prove that the signs are an integral part of or essential to the Carrier's highway grade crossing protection system. Third Division Awards No. 11973 (Kane); No. 13857 (Mesigh); No. 19251 (Devine) and No. 22705 (Kasher). We rule that the Organization has not met its burden of proof in this case. The signs which are mostly informational in nature are not substantially related to the highway protection system or to the approach or presence of a train. Thus, the disputed work was not exclusively reserved to the signal employees on this property.'”

In this claim the Organization failed to prove that the signs in question affect the signal system in any way. It also failed to prove that BRS-represented employees have the exclusive right to install these particular signs.

We find no basis in the present record that would support a different result in this identical case. Accordingly, for all of the reasons set forth in Third Division Award 35039, supra, this claim likewise is denied. See also Third Division Awards 35040, 35041, 35042, 35043, 35044 and 35045.

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 20th day of December, 2000.