

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36204
Docket No. SG-36288
02-3-00-3-514

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad)

STATEMENT OF CLAIM:

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

Claim on behalf of C. T. Brasher, R. D. Haynes, M. R. Anderson, M. D. Grubbs, J. S. Higgins, J. P. Montgomery, J. V. Higgins, A. D. Daffron, R. R. Klauss, B. K. Watson, J. C. Groves, C. D. Baggett, R. M. Schocklee, B. Cundiff, Jr., D. R. Clary, E. L. McDowell, J. E. Wade, C. A. Rogers, and K. A. Messick, for payment of \$7,495.90 each, account Carrier violated the current Signalmen's Agreement, particularly Rules 51, 31, and 32, when beginning on July 24, 1999, and continuing through September 10, 1999, it allowed employees assigned to System Signal Gang Numbers 7X44, 7XC4, 7XD7, 7XD8, 7XD6, and 7XC2 to perform work, not covered under Rule 51, on Seniority District No. 7, and deprived the Claimants of the opportunity to perform this work. Carrier also violated Rule 54 of the current Agreement when it failed to respond to the initial claim in a timely fashion. Carrier's File No. 15 99-0239. General Chairman's File No. 99-71-09. BRS File Case No. 11446-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 dispute concerns the Carrier's assignment of System Signal Construction Gangs ("System Gangs") to work with a Maintenance of Way System Production Tie and Surfacing Gang ("Tie Gang") from July 24 to September 10, 1999.

In his letter of December 14, 1999, the General Chairman alleged that the Carrier had violated Rules 31, 32 and 51 when System Gangs were assigned to work in conjunction with the Tie Gang. The General Chairman contended that System Gangs were precluded from performing the work that commenced on July 24, because it was not a new installation or new construction.

As a remedy, the General Chairman requested the Carrier to pay the amount which he contends was paid to the System Gangs (\$142,422) and that such amount be evenly divided between 19 employees working District Signal positions on Seniority District 7, because the System Gang performed "routine maintenance work" which may only be performed by District forces. The General Chairman premised his position on "past practice" and 1968 and 1984 Letter Agreements.

The Carrier denied the claim, noting at the outset that an unidentified number of employees from various System Gangs were assigned to work in conjunction with the Tie Gang, which was installing new ties and surfacing track on District 7 of the former L&N Railroad. As the Tie Gang replaced the ties and surfaced the track, the signal system was torn out and replaced, in what was a major track and signal construction project. The work performed by the System Gang consisted of renewing track wire connections and power cables, moving and replacing signals and signal apparatus, and cleaning up and hauling scrap material.

The Carrier further noted that Rule 51 gives it the right to use system construction forces to perform work such as the work made subject of this dispute, and that the work that was performed from July 24 to September 10, 1999 could not be considered "normal" maintenance.

Rule 51. SYSTEM GANGS-SPECIAL RULE states:

"(a) System gangs will be confined to construction work on new installations, except for necessary maintenance changes in connection with a construction project, and in emergency cases such as derailments, floods, snow blockades, fires and slides."

It is not disputed that from July 24 to September 10, 1999 various System Gangs were assigned to work in conjunction with the Tie Gang which was installing new ties and surfacing track. As the Tie Gang replaced the ties and surfaced the track, the signal system was torn out and replaced, in what constituted a major track and signal construction project. The work performed by the System Gangs consisted of renewing

track wire connections and power cables, moving and replacing signals and signal apparatus, and finally, cleaning up and hauling scrap material.

There is nothing on this record, or within the parameters of Rule 51, that prohibits the Carrier from using System Gangs for the type of work that was performed from July 24 to September 10, 1999.

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 September 2002.