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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36800
Docket No. SG-36679
03-3-01-3-236

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

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

STATEMENT OF CLAIM:

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

Claim on behalf of J. A. Rockwell, H. B. Simpson, J. R. Seiber, K. A. Pyles, G. P. Shaftic, B. E. Robinson, R. J. Oboczky, R. F. Selak, Sr., A. T. Viano, B. M. Baird, Jr., and S. T. Jones for payment of 1040 hours at the straight time rate and 260 hours at the time and one-half rate to be divided equally among the Claimants. Account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when beginning March 1, 2000 and continuing through April 27, 2000 Carrier allowed outside contractors to replace poles used exclusively for the signal pole line. Carrier’s action deprived the Claimants of the opportunity to perform this work. Carrier File No. 15 (00-0135). General Chairman’s File No. AK-6-01. BRS File Case No. 11772-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 matter were all Signal Department employees of the Carrier who were so employed during a period between March 1 and April 27, 2000 in which the Carrier used an outside contractor to replace poles used to carry signal department line wires between Mile Posts BG 190.0 and 160.0.

The Organization relies on the parties' Scope Rule in support of the claim, arguing that because the poles in question serve no purpose other than carrying signal department line wires, the work in question was covered by those portions of the Scope Rule applying to "all other apparatus considered . . . part of the signal system," "wayside equipment necessary for...train control systems," "traffic control systems," and/or "all other work generally recognized as signal work."

We disagree with the Organization's assertions. First, we note that the Scope Rule involved herein says nothing about poles. Thus, this case differs from others in which the Organization has successfully made its claim, including claims against this very same Carrier albeit other former component roads having different Scope Rules. (See e.g., Third Division Awards 32922 and 35037.) Therefore, like the Scope Rule in Third Division Award 32501, again with the same Carrier, the instant Scope Rule is "undeniably general in nature" with regard to poles and the Organization bears the burden, which it has not met, "to establish by competent evidence that the Carrier has acceded over a period of time to a tradition and practice of assigning pole . . . work solely . . ." to its Signal Department employees. (See also, Third Division Award 32479 and 33384.)

Finally, this is not the first time that the Board has examined this issue between this Organization and CSXT (former Baltimore and Ohio Railroad

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Company) and each time the Board has rejected the claim. We see no reason to depart from this course.

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 29th day of December 2003.