

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37209
Docket No. SG-37816
04-3-03-3-185

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.)

STATEMENT OF CLAIM:

"Claim of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (CSXT):

Claim on behalf of J. M. King, for two hours and 40 minutes at the time and one-half rate of pay, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it allowed a track employee from BMW to remove snow and ice from the power operated crossover switches at the east and west ends of Charleston because they would not reverse. The violation occurred on January 20, 2002, and deprived the Claimant of the opportunity to perform this work. Carrier's File No. 15-02-0096. General Chairman's File No. 02-43-CD. BRS File Case No. 12632-C&O(CD)."

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.

At all relevant times herein the Claimant was employed by the Carrier as a Signal Maintainer responsible for the maintenance of switches at the East and West Charleston location of the Carrier. On January 20, 2002 the Carrier assigned a BMW-represented employee to remove snow and ice from switches that did not respond to power operated switching devices. The record reflects that the BMW-represented employee was already in the yard cleaning snow and ice from switches generally and in doing so was assigned to attend to the switches in question as well as others.

The Organization contends that when removing snow and ice or other foreign matter from switches is done for the purpose of ensuring the proper operation of signals, that work accrues to employees represented by the Organization. Under circumstances different from that of the instant case, we might find ourselves in agreement with the Organization. However, the record clearly reflects that the work in question in this case did not become necessary because snow and ice on the switches caused a malfunction, but rather only because the BMW-represented employee was already in the yard performing such work on switches generally. Thus, we believe that this case can be distinguished from that where a power failure had occurred and find that the claim is without merit.

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 28th day of September 2004.