

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37334
Docket No. SG-37498
05-3-02-3-582**

The Third Division consisted of the regular members and in addition Referee Nancy F. 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, Inc. (CSXT):

Claim on behalf of M. K. Mohler, C. W. Bell, M. L. Hartman, L. D. Goff, R. L. Kalbaugh, M. L. Heck, R. M. Shambaugh, L. W. Weaver, R. L. Cale, D. W. Wood, E. J. Mack, W. E. Whitacre, E. T. Frazier, G. L. Cathell, Jr., S. L. Jones, M. T. Appel, M. R. Chambers, R. A. Witt, D. E. Podlesnik and P. L. Garland, for 945 hours at straight time and 65 hours at the time and one-half rate to be divided equally among the Claimants, account Carrier violated the current Signalmen’s Agreement, particularly CSXT Labor Agreement No. 15-18-94, when it assigned a System Signal Construction Force, 7X19, to perform maintenance work on the Cumberland Division, and deprived the Claimants of the opportunity to perform this work. Carrier’s File No. 15(01-0182). General Chairman’s File No. CUMB-1-10-1. BRS File Case No. 12196-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.

On June 27, 2001 the Organization presented this claim contending that the Carrier violated CSXT Labor Agreement 15-18-94, when it "allowed Signal System Construction Gang 7X19, to perform the work of installing PVC pipe to carry cable to the weight rail for the Master Retarder" at the Westbound Hump Yard on the Cumberland Subdivision. The Organization contended that such work was handled by local Maintenance personnel in the past. As a result, the Organization requested that the Carrier compensate the Claimants 945 straight time hours and 65 overtime hours to be divided equally among the Claimants "due to this loss of work opportunity."

In his August 27, 2001 denial, the Regional Engineer Signal stated:

"After reviewing this claim, I understand that System Signal Construction team 7X19 was assigned to help with the installation of the new PVC Pipe and weight rail system. This work was a Capital Improvement project and is considered construction work and therefore within the scope of the agreement. In addition, there were no lost wages incurred by any Signal Department employees of the affected area during the time of this construction work."

During four weeks in early 2001, System Signal Construction Gang No. 7X19, consisting of six employees covered by the scope of the schedule Agreement, was used to assist in the installation of PVC pipe and cable for a new weight rail system at the Westbound Hump Yard in Cumberland, Maryland. The Organization asserted that it was improper for these employees to perform the work and insisted that the Claimants should have performed the work to the exclusion of the System Signal Construction Gang.

The Organization contends that the work in dispute was not construction work as per the definition of "construction work" as contained in CSXT Labor Agreement No. 15-18-94. The Carrier's position, on the other hand, is that CSXT Labor Agreement No. 15-18-94 provides for such use of System Signal Construction Gangs when more than routine maintenance is required and a new system is installed. Moreover, the Carrier pointed out there was no showing by the Agreement language or past practice that the work in dispute should have been performed by the Claimants to the exclusion of other members of the same craft and Organization.

Virtually identical claims have been consistently denied by the Board on the basis of the reasoning set forth in Third Division Award 33152. Nothing in the record persuades us that a different result is warranted in the present matter.

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 19th day of January 2005.