Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37336
Docket No. SG-37657
05-3-02-3-718

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 Chicago and
(*Eastern Illinois 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 E. A. Jarvis, R. A. Blacketer, T. J. Blakely, D. J. Norman, S. W. Denny, M. L. Eldridge, N. L. Blakely, J. E. Batton, L. R. Cundiff, V. P. Thomas, M. R. Heck, T. A. Reed, R. J. Birkenfeld, S. F. Sievers, A. E. Sheppard, and J. L. Denny for payment of 173.525 hours each at the straight time rate. Account Carrier violated the current Signalmen's Agreement, particularly Rules 1, 10 and 20, and CSXT Labor Agrrment No. 15-093-98. The violations occurred beginning on June 30, 2000, and continued through July 21, 2000, when Carrier allowed employees not on holding seniority on C&EI to perform work associated with a Tie Surfacing Project. This action deprived the Claimants of the opportunity to perform this work. Carrier's File No. 15 (00-0186). General Chairman's File No. 2000-25-6. BRS File Case No. 11677-C&EI."

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 August 22, 2000, the Organization presented a claim alleging that the Carrier violated the Agreement, particularly the Scope Rule, as well as Rules 10 and 20, in addition to CSXT Labor Agreement No. 15-093-98, the "Flexibility Agreement," when it "failed to maintain the employment levels dictated by same" and "used foreign forces to avoid payment of overtime to Claimants." The Organization contended that the violation occurred during the period of June 30 through July 21, 2000, when System Gangs 7XD7, 7XC2, 7X45, and 7XC4, consisting of Signalmen who were covered by the scope of the L&N schedule Agreement, performed work on the former C&EI territory.

The Organization asserted that it was improper to allow L&N System Signal Construction Gangs to perform "TSC" work on the former C&EI territory because Labor Agreement No. 15-093-98 only allows the Carrier to assign a foreign (L&N) System Signal Construction Gang on the C&EI to perform a "major construction project." The Organization insisted that the C&EI Claimants were point-headquartered district Signalmen who should have performed the work.

The Carrier denied the claim asserting that the work at issue was "construction, not maintenance work." The Carrier went on to note that the disputed project consisted of a "major revision" to the existing signal systems and, therefore, could not be considered "routine" maintenance work. Specifically, the Carrier stated without refutation by the Organization that the work performed included "installation of new turnouts, switch machines, switch hardware, the relocation and replacement of wayside signals, renewal of track wires, moving staples from track leads, removing fasteners for the termination tie shuts and marking of the signal wires so they can be visible for the track forces while they were doing their work as part of the 'major' construction project."

This case does not present matters of first impression. For reasons fully expressed in Third Division Award 33152 and reaffirmed in Third Division Award 37333, the present claim is denied.

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.