

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 41791  
Docket No. SG-41607  
13-3-NRAB-00003-110280**

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(National Railroad Passenger Corporation (Amtrak))

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corp.:**

**Claim on behalf of the senior Signal Electronic Technician on each subdivision, for 8 hours pay at each interlocking location that Communication employees were used to install signal related equipment; account Carrier violated the Scope Rule when it assigned another craft of employees to perform work reserved for the Claimants by the Agreement. The instant claim is ongoing until this dispute is resolved. General Chairman’s File No. BRS-SD-1137. BRS File Case No. 14494-NRPC(S).”**

**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.

As Third Party in Interest, the International Brotherhood of Electrical Workers (IBEW), was advised of the pendency of this dispute, and filed a Submission with the Board.

This dispute involves the use of Communications Department employees represented by the IBEW to install the Rugged Com RS910L device in Signal Central Instrument Houses (signal huts) at signal interlocking locations on the New England territory rather than Signal Department Electronic Technicians (as well as the complimentary RS416 at the CTC Center). The issue upon which the resolution of this claim rests is whether this device is an integral part of the signal system or communications network, because all parties agree that its purpose determines which Scope or Classification of Work Rule is applicable and the assignment of the work in question. See, Third Division Awards 19525, 19418 and 8217. There is no dispute that Communication Department employees have historically installed and maintained communication equipment. On the New England territory (the northern end) which is involved in this dispute, Communication Department employees are represented by the IBEW. On the southern end of the Carrier's territory, Communication Department employees are represented by the BRS.

Signal Department employees on both territories are represented by the BRS under its Scope Rule, the pertinent portion of which is relied upon by the Organization and appears below.

**"RULE 1 - SCOPE**

**C. The following Scope Rule will apply on the Northern Seniority District.**

**This agreement covers rates of pay, hours of service and working conditions of employes, . . . engaged in the construction, repair, inspection, testing, and maintenance either in the railway signal shop or in the field of all railway signal equipment used in connection either directly or indirectly with train operation**

regardless of its type or how actuated, including all kinds of interlocking, . . . remote control of switch and switch signals . . . .”

The Organization argues that (1) this device is signal remote control equipment that conveys data between the Central Train Dispatching Office and remote signal locations, (2) it is simply replacing existing modems as a means to transmit and receive signal data, and (3) this equipment is reserved to Signal Department Electronic Technicians under the Scope Rule because it is used exclusively to transmit and receive signal information. The Organization further contends that its current use, not its potential future use, is controlling, citing Third Division Awards 5200, 11674, and 37701; Second Division Award 6330. The Organization asserts that the Carrier is attempting to change the line of demarcation between Signal and Communication work, which has always been where the communication line terminated, and that historically Signal Department employees installed and maintained all signal-related equipment over the years throughout the technological advances of which the Rugged Com RS910L is just the latest in the Carrier’s movement to a LAN-based network.

The Carrier contends that the Rugged Com RS910L, and its complimentary device RS416, are neither modems nor an upgrade of the signal system, but rather are multi-function devices that perform different jobs from prior system equipment. It asserts that these devices are an integral part of the communications system, because their intended use is to communicate and transfer data - not to operate the signal system - and they relay signal and electric traction data, and ultimately will transmit other data, using a DSL component that allows high speed data to be transmitted over the communications network that links field locations with the Control Center. The Carrier notes that the device is not part of the train stop, train control or cab signal equipment or signal system wiring to aerial, underground or submarine cables. The Carrier points out that the Rugged Com RS910L device has also been installed in 77 Electric Traction facilities, and is a router, with the line of demarcation being the field side of the router. It states that the installation involves programming the device with a MAC address and other parameters using a laptop computer, and argues that the assignment of its installation in signal huts to Communications Department employees is consistent with their Scope Rule and the purpose of the equipment.

The Carrier further contends that there is a mixed practice on this property concerning the performance of functions relating to the prior modems in the signal huts, where BRS-represented employees installed and replaced them and performed limited troubleshooting, whereas IBEW-represented employees repaired and replaced them, and argues that the Organization cannot sustain its burden of proving exclusivity as to the installation of even the prior modem devices. The Carrier notes that BRS-represented employees were on site during all installations so as to give access to the signal hut because they retain control of the hut, and remain responsible for all field side signal apparatus that connect to these devices and to signal equipment, so there was no loss of work opportunity with respect to the actual installations upon which this claim is based, relying on Third Division Awards 31494 and 31989.

Conversely, the IBEW asserts that these devices are communications devices, and work associated with their installation, maintenance and repair is preserved by its Agreement and has been historically performed by Communication Department employees. It explains that the Rugged Com RS910L is used to perform numerous communication functions by use of fiber optic technology allowing monitoring and control of multiple data sources through the communications network, including signal data. The IBEW notes that the installation of this communications device requires the use of a laptop to access the central communications system to set up program and test the device.

A careful review of the record convinces the Board that the Organization failed to sustain its burden of proving a violation of the Scope Rule of its Agreement under the facts of this case. There is no doubt that the Organization is understandably concerned with what it views as the removal of signal-related remote control work from the scope of its Agreement, as can be seen from the strength of its advocacy on the property. If the Rugged Com RS910L was shown to be only another technological advancement in the operation of the signal control system, the Board would agree with the Organization that Signal Department employees should have been assigned to its installation in the signal huts in accordance with the BRS Scope Rule and historical past performance, because the Carrier's assertion of a mixed practice did not relate to the installation of prior devices such as modems used exclusively in the signal system, just their repair and replacement.

However, the Board is not convinced that the record supports the Organization's position that this device is currently used to only transmit signal control data as part of the signal communications system. Rather, even if signal data is being transmitted through the use of the Rugged Com RS910L in signal huts, the transmission is clearly being made as part of the overall fiber optic communications network which is capable of monitoring and controlling multiple data sources. The record does not support the conclusion that the device is utilized for the purpose of remotely controlling switch or switch signals, which is work that is specifically protected under the BRS Scope Rule. The Carrier's admission that Signal Department employees retain control of the signal hut and all field side apparatus that connect to these devices and signal equipment should dispel any concern of the Organization that its control of signal system-related work is being eroded. On the basis of this record, the Board must conclude that the Organization failed to sustain its burden of proving a violation of its Scope Rule concerning the 2009 installation of the Rugged Com RS910L device at signal interlocking locations on the New England territory. Accordingly, the instant claim must be 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 17th day of December 2013.