

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20721
Docket Number SG-20467

Dana E. Eischen, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(The Long Island Rail Road Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Long Island Rail Road that:

(a) Carrier is in violation of the Signalman's Scope in allowing Electric Light employees to disconnect and relocate equipment specifically used for communication purposes. This particular signaling device is essential for the Train Dispatcher to contact the block operator at Brook Tower and was installed and is maintained by the Communication Dept. Its proper operation is the exclusive responsibility of said department.

(b) Carrier now pay to Maintainer J. A. Ryan three (3) hours pay at the straight-time as a consequence of the violation.

OPINION OF BOARD: The Organization contends that the Carrier violated the Scope Rule of the applicable Signalmen's Agreement when, on or about April 13, 1972, electrician employees in Carrier's Electric Light and Power Department moved a buzzer some 8 or 9 inches to make room for a conduit they were installing. It is unrefuted that no wires were removed or changed, rather two mounting screws were removed to enable movement of the buzzer and then reinserted to remount the equipment in its new location. The instant claim alleging a Scope Rule violation by Carrier and demanding a remedy of three hours at the straight time rate was filed on June 10, 1972. The claim was handled in the usual manner on the property without settlement and comes now to our Board for resolution.

In denying the claim, Carrier urges that the work in question was performed by the Electric Light employees without the direction or concurrence of management. Additionally, Carrier argues that the work performed was no violation of the Scope Rule, was in any event de minimis and that no loss was suffered.

The Organization insists that the work in question was reserved unto the Signal employees by the Scope Rule and that a violation is demonstrated on the record herein, notwithstanding the quantum of work involved.

A careful review of the record shows no evidence to refute the assertion that the work in question was performed by the electrical employees without instructions or communications with anyone in authority from the Carrier; i.e. voluntarily and without directions and authority. Having established this uncontroverted evidence on the record we need go no further to resolve this matter.

We have been presented before with cases wherein the record does not show that disputed work was performed with the knowledge and consent of Carrier.

In Award 16837 we stated:

"This Board has held on numerous occasions that absent directions and authority voluntary service cannot be asserted to support a claim."

See also Award Nos. 18369, 18996, 19472.

We find the reasoning in these Awards applicable herein and persuasive. Accordingly we shall dismiss the instant claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

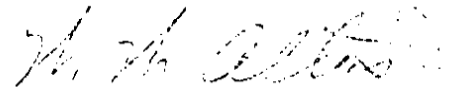
A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 16th day of May 1975.

Dissent to Award No. 20721. Docket No. SG-20467

The effect of the Majority's holding in Award No. 20721 is to permit the respondent Carrier to rely upon its own negligence in not properly or completely preparing for the work to be done by its electricians and by failing to properly instruct those employees or to control their work.

I dissent.



W. W. Altus, Sr.
Labor Member