

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on Consolidated Rail Corporation (Conrail):

On behalf of Brother E. G. Roth for 3 hours pay at his punitive rate of pay account of Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope Rule, when on June 12, 1986, it allowed or permitted an Assistant's Signal Supervisor to perform signal repair work at Avenue 'B,' in Endicott, N. Y." Carrier file SD-2335.

FINDINGS:

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

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

The Organization asserts that Carrier violated the Agreement when the Assistant Signal Supervisor performed classified signal work protected by the Scope of the Agreement. Specifically, the Organization alleges that the Assistant Supervisor repaired severed track wires on June 12, 1986.

This Board has reviewed the facts in the instant case and finds for the Carrier. While the work was Signalman's work, the circumstances herein document the emergency nature of the repairs. The Organization did not refute the following: that no signal department personnel were at the Avenue "B" pedestrian crossing; that the gates were down and flashing without cause due to broken track wires; that radio contact was not possible with signalmen; that the crossing was used by fire station personnel and the elderly; and that only temporary repairs were made. The record disclosed that Signal Department personnel were then located and advised to make permanent repairs.

This Board has issued numerous Awards holding that when, as here, an emergency condition effecting safety is involved, the Carrier may take necessary action and exercise greater latitude to deal with the emergency. This Claim must be denied. This is consistent with the logic and conclusion of numerous Third Division Awards 26677, 19140, 14372.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest.


Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1989.