

The Third Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Bessemer and Lake Erie Railroad Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Bessemer and Lake Erie Railroad Company (B&LE):

On behalf of Brother R. D. Flinn for 2 hours and 40 minutes pay at his punitive rate of pay account of the Carrier violated the Signalmen's Agreement, particularly, the Scope Rule, when it allowed or permitted Electrician Tom Burrows (IBEW member) to open a signal case and turn on the air supply at Odell on November 18, 1984."

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 employes 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.

As Third Party in Interest, the International Brotherhood of Electrical Workers was advised of the pendency of this dispute and did file a Submission with the Division.

On December 20, 1984, a claim was filed on grounds that an employee not covered under the Agreement between the Carrier and the Organization performed signal work in violation of the Scope Rule.

The evidence of record shows that on November 17, 1984, the Claimant turned off an air compressor to permit an electrician to make electrical repairs to a transformer. After completing the necessary repairs the electrician turned the air compressor back on.

The Carrier argues that other employees in the past have operated switches and pushbuttons at signal facilities and that such has been a bilateral right between crafts and/or departments. The Organization, on the other hand, argues that work related to power lines extending to components inside a compressor case is Signalman's work covered by that portion of Scope Rule 1 which states the following:

"Also the repair and maintenance, construction, reconstruction and installation, as performed with Signal Division forces, of devices included in the following signal apparatus and systems, when required exclusively for the operation of the above railroad signaling and interlocking systems:---

High tension and other lines overhead or underground from circuit breaker
Poles and fixtures
Wood, fibre, iron or clay conduit systems
Bonding of rail
Transformers
Arresters"

A study of the record does not provide sufficient evidence of probative value to determine if there has been a violation of the Signalmen's Scope Rule in the instant case. Without ruling, therefore, on whether the work in question belongs to this craft, the Board can conclude that the work involved was of such minimal amount that it falls under de minimus doctrine and that such doctrine can be reasonably applied here. In this regard the Board cites with favor the language from Second Division Award 8360 which is applicable here:

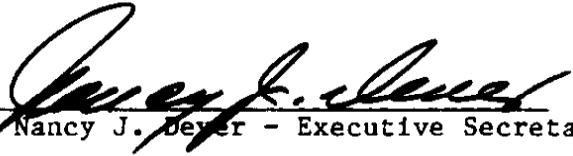
"...(the work must be) considered incidental and de minimus. To hold otherwise, we believe, would seriously and unduly hamper the efficiency of the operations of the Carrier, without providing any meaningful or necessary protections to the highly significant and legitimate duties which are, and will remain, the exclusive province of (this) craft..."

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 4th day of December 1989.