

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31727
Docket No. SG-31454
96-3-93-3-457**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Burlington Northern Railroad**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Railroad (BN):

CASE NO. 1

Claim on behalf of M.R. Sims, M.D. Dake, and G.C. Rogers for payment of 6 hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimants of the opportunity to perform this work. Carrier's File No. SI 93-02-05A. General Chairman's File No. S-5-93. BRS File Case No. 9120-BN.

CASE NO. 2

A. Claim on behalf of M.R. Sims, M.D. Dake, and G.C. Rogers for payment of 6.7 hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimants of the opportunity to perform this work.

B. Claim on behalf of M.R. Sims, M.D. Dake, and G.C. Rogers for payment of 2.7 hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimants of the opportunity to perform this work.

C. Claim on behalf of M.R. Sims and M.D. Dake for payment of six hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimants of the opportunity to perform this work. Carrier's File No. SI-93-02-05A. General Chairman's File No. S-5-93. BRS File Case No. 9120-BN.

CASE NO. 3

Claim on behalf of M.S. Eaves and R. L. Grogan for payment of 46 hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimants of the opportunity to perform this work. Carrier's File No. SI 92-12-08A. General Chairman's File No. S-29-92. BRS File Case No. 9122-BN.

CASE NO. 4

Claim on behalf of D.E. Johnson for payment of 64 hours at the straight time rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimant of the opportunity to perform this work. Carrier's File No. 5SI 92-10-21. General Chairman's File No. C-23-92. BRS File Case No. 9123-BN.

CASE NO. 5

Claim on behalf of G. R. Sanders for payment of 56 hours at the straight time rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimant of the opportunity to perform this work. Carrier's File No. 5SI 92-10-20. General Chairman's File No. C-22-92. BRS File Case No. 9124-BN.

CASE NO. 6

Claim on behalf of M.R. Sims, M.D. Dake, and G.C. Rogers for payment of 4 hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 8SI 92-09-17. General Chairman's File No. S-21-92. BRS File Case No. 9125-BN.

CASE NO. 7

Claim on behalf of D.E. Davis for payment of 80 hours at the straight time rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 1 (Scope Rule), when it utilized an outside company to perform the covered work of repairing electronic signal equipment and deprived the Claimant of the opportunity to perform this work. Carrier's File No. 5SI 92-07-15. General Chairman's File C-14-92. BRS File Case No. 9126-BN."

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.

These claims concern the repair of electronic printed circuit boards or modules in instances where the Carrier undertook to have the equipment manufacturer perform the work. It is the Organization's contention that the Scope Rule (Rule 1) "provides in unambiguous terms that repair of such equipment is reserved to Carrier employees covered under the Signalmen's Agreement."

The Carrier argues that the Scope Rule here is general in nature and does not specify specific tasks reserved to Signalmen. In support of the Carrier's view is Third Division Award 20783, involving a similar Signalmen's Scope Rule. That Award found in part as follows:

"The Scope Rule in this dispute is general and does not per se reserve the work described to employees covered by the Agreement. The exclusive right to the work in question can only be established by a showing of a history of system-wide practice and custom; this evidence has not been presented by Petitioner and has been denied by Carrier."

The claims here are of two general varieties. The first concerns the equipment return to manufacturers where the boards are under the manufacturers' warranties. In these instances, where the work is performed without cost to the Carrier and under the terms of its original equipment purchase, it can be readily established that the Organization can point to no contractual provision requiring the Carrier to ignore such service.

As to other instances, the extensive record shows a decidedly mixed established practice under which a substantial share of circuit board repair work has been performed by the manufacturers rather than by Carrier forces. The Organization contends that it has protested the practice in the past, but the record does not establish findings that such practice is contrary to the Agreement. The Board concludes that the instances here under review are indistinguishable from previous practice and that the Organization has not established its exclusive right to the work.

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 25th day of September 1996.