

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32944
Docket No. SG-33015
98-3-96-3-402**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad Company)**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville & Nashville Railroad:

Claim on behalf of J.P. Henning, J.L. Mobley, J.H. Moorman, G.R. Campbell Jr., R.L. Smith Jr., E. Gibbs Jr., R.C. Jones, G.F. Vincent, B.D. Vincent and J.D. Driggers for payment of one hour each per day at the straight time rate, beginning May 22, 1995, and continuing for the term of the violation, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule and Agreement S-069-87, when it utilized other than covered employees to reclaim 300 signal heads and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 15(95-220). General Chairman's File No. 95-SYS-103. BRS File Case No. 9728-L&N."

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.

Claimants are assigned to Carrier's Savannah Signal Shop. The instant claim alleges that Carrier subcontracted the reclaiming of 300 R2 signal heads to L&W Industries in May 1995 in violation of the Scope Rule. Carrier denied that it contracted out the work, contending that the Organization failed to specify which signal heads it was complaining of and indicating that its contract with L&W Industries was to purchase preassembled doublet lenses for installation in wayside signal devices.

As noted in Third Division Award 32597 between these parties in strikingly similar circumstances:

"It is well-established that Carrier does not violate the Agreement by purchasing pre-assembled components. See, e.g., Third Divisions Awards 32290, 32135, 28879. Consequently, the Organization has the burden of proving that the signal heads were refurbished away from the property and that Carrier did not simply purchase new lenses. . . ."

In the instant case, as in that case, the Organization failed to meet its burden of proving that Carrier sent the 300 R2 signal heads referred to in the claim away from the property, where they were refurbished and thereafter returned for use by Carrier. In fact, the only evidence presented by the Organization in response to Carrier's on-property challenge that it specify the action being referred to, is a reference to the return of 52 reclaimed signal heads in September 1995. It appears that those 52 signal heads were the subject of a separate claim between the parties which was disposed of in Third Division Award 32800. Thus, insofar as this claim deals with those units, it is a duplicate claim which must be dismissed. Otherwise, the record is devoid of any evidence to indicate that L&W Industries provided anything other than new lens assemblies to Carrier. Accordingly, the claim must be denied.

AWARD

Claim denied.

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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 23rd day of November 1998.