

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34005
Docket No. SG-35319
00-3-99-3-184**

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

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Chesapeake and Ohio
(Railway Company - Pere Marquette District)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (C&O-PM):

Claim on behalf of A.B. Lieto, J.L. Klun, S.D. Perry and L.T. Miller, for payment of 60 hours each at their respective time and one-half rates, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it used outside forces to install computer hardware and software at Livonia, Michigan, from November 10 through November 14, 1997, and deprived the Claimants of the opportunity to perform that work. Carrier’s File No. 15(98-152). General Chairman’s File No. 98-01-PM. BRS File Case No. 10808-C&O-PM.”

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.

This dispute involves an allegation by the Organization that the four named Claimants were somehow deprived of work opportunities when “persons not covered by this Agreement” who are not otherwise identified allegedly performed “Communications work” that accrued to the Claimants under the terms and language of the parties’ Scope Rule that reads as follows:

**“COMMUNICATION
RULE 1**

This Agreement covers rates of pay, hours of service and working conditions of all employees specified in Communication Rules 101, 103, 104, 105 and 106, engaged in the installation and maintenance of communication facilities or equipment and performing work generally recognized as communication work, including employees in the United States classified under Communication Rule 104(b) of this Agreement. This Agreement shall not be construed as granting to employees coming within its scope the exclusive right to perform the work of installing and maintaining other than railroad owned facilities or equipment.”

On the property, the Organization argued that the Carrier had violated the time limits Rule when the claim as initially presented was not timely denied. However, the Statement of Claim as presented to the Board does not contain any language to suggest that a time limits contention is part of the dispute to be addressed by the Board. In any event, the on-property record of handling does not support a conclusion of time limits violation. The record reflects that the initial claim was denied within 60 days of the date it was “filed,” i.e., received by the Carrier. Therefore, the time limits argument is not supported by the record.

From the Board’s review of the case record as it exists in this instance, there is not found sufficient identification of wrongdoing to support a conclusion that the Scope Rule was, in fact, violated. The Organization has not made a prima facie case to support its contention that the vaguely identified work of “chang(ing) computer hardware and software” by the otherwise unnamed individuals was work guaranteed to the Claimants by the language of the Scope Rule. The Organization has not carried the burden of proof which is its to carry. Therefore, the claim as presented is denied.

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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 19th day of April, 2000.