

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34180
Docket No. SG-35275
00-3-99-3-127**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

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

STATEMENT OF CLAIM:

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

Claim on behalf of K. E. Donohoo, R. A. Volosin, Jr., J. J. Hunter, J. C. Pace, Jr., W. C. Williams, R. S. Crist, K. A. Stertz, L. G. Miller and R. E. Hazek for payment of 650 hours at the straight time rate, to be divided equally among the Claimants, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule and Agreement No. 15-46-97, when it used outside forces to perform signal conduit installation work, from December 15, 1997, to February 3, 1998, and deprived the Claimants of the opportunity to perform this work. Carrier’s File No. 15(98-145). BRS File Case No. 10870-B&O.

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.

In a letter dated February 4, 1998, the Organization submitted a claim on behalf of Claimants K. E. Donohoo, R. A. Volosin, Jr., J. J. Hunter, J. C. Pace, Jr., W. C. Williams, R. S. Crist, K. A. Stertz, L. G. Miller, and R. E. Hazek, the Carrier employees assigned to System Signal Construction Team 7XD2. In that letter, the Organization alleged that the Carrier violated the Agreement when it utilized a contractor to install underground conduits for signal systems at several locations on the Carrier's property from December 15, 1997 to February 3, 1998, thus depriving the Claimants of the opportunity to perform that work. In addition, in a letter dated February 15, 1998, the Organization noted that the Scope Rule, in particular Section D, should be added to the original claim. The Carrier denied this claim in a letter dated March 17, 1998, based upon its assertion that specialized equipment and training were needed to complete the work in question. The Organization seeks payment of 650 hours at the straight time rate to be divided equally among the Claimants.

At issue in the case at hand is whether the Carrier violated the Scope Rule and CSXT Labor Agreement No. 15-46-97, which read in pertinent part:

"SCOPE

This Agreement governs the rates of pay, hours of service and working conditions of all employees classified in Article I of this Agreement, either in the shop or in the field, engaged in the work of construction, installation, inspecting, testing, maintenance, repair and painting of:

- (a) Signals including electric locks, relays and all other apparatus considered as a part of the signal system, excluding signal bridges and cantilevers.**
- (b) Interlocking systems, excluding the tower structure.**
- (c) Highway crossing protection controlled or actuated by track or signal circuits.**
- (d) 1. Signal Department conduits, wires and cables, overhead or underground.**

* * *

No employees other than those classified herein will be required or permitted, except in an emergency, to perform any of the signal work described herein except that signal supervisory and signal engineering forces will continue in their supervisory capacity to make such tests and inspections of all signal apparatus and circuits as may be necessary to insure that the work is installed correctly and properly maintained. The term ‘emergency’ as used herein is understood to mean the period of time between the discovery of a condition requiring prompt action and the time an employee covered by this Agreement can be made available.”

CSXT Labor Agreement No. 15-46-97 reads in pertinent part:

“WHEREAS, CSX Transportation, Inc., “CSXT,” desires to perform work in connection with necessary signal improvements, including road crossings on the former Baltimore and Ohio Railroad, “B&O,” as indicated in Appendix “A” hereto, “the project”; and,

WHEREAS, existing signal forces currently employed on the former B&O property and represented by the Brotherhood of Railroad Signalmen, “BRS,” are insufficient in number to perform the required work associated with this project in the desired time frame; and,

WHEREAS, the parties recognize that in order to timely accomplish the project that it is necessary to augment the current CSXT (BRS represented) signal forces and to a limited extent utilize non-CSXT forces; and,

WHEREAS, the parties have met in conference and have reached certain mutually beneficial understandings regarding the manner in which this project can be successfully accomplished. . . .”

In addition, the Organization asserts the following excerpt from CSXT Labor Agreement No. 15-46-97 is pertinent to this dispute:

“3. To the extent they are available, non-CSXT/BRS* represented signal forces will be used to augment the CSXT signal forces. The BRS and CSXT

will cooperate to identify the non-CSXT signal forces. Any company or entity providing such BRS represented forces to CSXT, or to a contractor of CSXT, will be required to be competitive in the industry with respect to productivity, labor rates and related charges, as well as quality of workmanship performed by its forces, in order that CSXT or its contractors do not suffer unreasonable economic hardship.”

A foot note to CSXT Labor Agreement No. 15-46-97 states:

“* Non-CSXT, CSXT, and Non-CSXT/BRS, refers to Non-B&O, B&O, and to Non-B&O employees represented by the BRS, respectively.”

In the case at hand, which is similar to Third Division Award 34169, the Organization asserts that the work in question is exclusive to the Signalmen’s craft and that the Claimants had the equipment and training for completing this project, hence the Carrier violated the Scope Rule. Also similar to Third Division Award 34169, the Carrier states it did not possess the special equipment and trained personnel needed to complete the project. In addition, the Carrier asserts that due to the magnitude of the project and the narrow time frame CSXT Labor Agreement No. 15-46-97 was created to allow the work in question.

The Board does not find that this case differs substantially from Third Division Award 34169. As in that Award, the Organization failed to prove that the Carrier possessed the necessary equipment required or that it had an obligation to train Carrier employees to use equipment it did not own.

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 20th day of July, 2000.