

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35363
Docket No. SG-35045
01-3-98-3-791**

The Third Division consisted of the regular members and in addition Referee Robert M. O'Brien 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 J.A. Rich, W.L. Fain, T.A. Hamilton, J.D. Ball, E.J. Bohman, J.W. Durham, J.W. Fuller, C.L. Giffith, J.P. Warner, W.M. Ryan and E.R. Reams for payment of a total of 168.07 hours each at their respective time and one-half rates, account Carrier violated the current Signalmen's Agreement, particularly Rules 31, 32, 51, and the CSXT Labor Agreement 15-122-93, when it used employees from outside Seniority Districts to perform repair work on the signal system on Seniority District No. 1 from August 11 through August 21, 1997, and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 15(97-256). General Chairman's File No. 97-176-07. BRS File Case No. 10852-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.

On August 8, 1997, a derailment occurred at the Roundstone control point which is located in Seniority District No. 1 (Cincinnati). The derailed cars destroyed the signal control house, the power switch layout, the hand throw switch layout and the highway warning protection starts for the Wilde public crossing. The Organization allowed Signalmen from Seniority District No. 2 to begin repairing the damage caused by the derailment. A Signal System gang was also brought in to assist with the repairs to the signal system.

On August 11, 1997, the track was restored and trains began operating, but without the benefit of the signal system or the passing track. All the signals were red and trains had to stop at each one. Trains also had to be flagged across the public crossing. This resulted in delays to trains in the area that were operating on direct traffic control (DTC).

Because the destroyed signal system was obsolete the Carrier upgraded the area to electronic track and signal circuits. Signalmen from Seniority District No. 2 and a System Signal gang worked on this project until August 21, 1997.

The Organization recognizes that the Carrier experienced an "emergency" on August 8, 1997, when derailed cars destroyed the signal system at the Roundstone control point. However, it asserts that this emergency ceased on August 11, 1997, when trains resumed operating under direct traffic control. Therefore, the Organization avers that after August 11, 1997, Signalmen in Seniority District No. 1 should have repaired the signal system in their seniority district rather than employees from Seniority District No. 2 and a System Signal gang. The Organization requests that employees from Seniority District No. 1 be compensated for this lost work opportunity.

The Board agrees with the Organization that after the track was restored and traffic resumed operating on August 11, 1997, the exigent circumstances that existed when the signal system at the Roundstone control point was destroyed by derailed cars on August 8 ceased to exist. Therefore, restoration of the signal system subsequent to August 11, 1997, should have been assigned to employees in Seniority District No. 1 where the work was performed.

The Carrier contends that there were not enough employees from Seniority District No. 1 available to repair the signal system at the Roundstone control point

because they were all busy working on other major projects. According to the Carrier, all Signalmen in Seniority District No. 1 were fully employed between August 11 and August 21, 1997. Indeed, many worked considerable overtime during this period.

There is no evidence in the record before the Board to refute the above allegations by the Carrier. Accordingly, the Board is unable to find that any employees in Seniority District No. 1 were deprived of compensation as a result of employees from Seniority District No. 2 and a System Signal gang performing work within their seniority district. Consequently, the remedy requested must be denied.

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 20th day of March, 2001.