

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35469
Docket No. SG-35892
01-3-99-3-900**

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(CSX Transportation, Inc. (former Chesapeake and
(Ohio - 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 R.G. Robertson, for payment of two hours and 40 minutes at his time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it used non-covered employees to remove and install radios on locomotives, on August 22, 1998. Carrier’s File No. 15(99-18). General Chairman’s File No. 99-08-PM. BRS File Case No. 11011-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 claim involves yet another repeat of the claim, circumstances, arguments and citations that have previously been reviewed and addressed by the Board in Third Division

Awards 35464, 35465, 35466 and 35467, as well as in several other previous decisions all of which denied the claims as presented. There is nothing found in the facts or arguments of this case that would justify a different conclusion than those reached in the many previous decisions.

The Board has held in instances too numerous to require citation that when the Board considers and disposes of a dispute involving the same parties, the same or similar Rule and similar fact situations, the prior decisions should be controlling and the issue should be considered settled especially when the prior decisions are not found to be palpably erroneous. No such argument or finding of error has been made in this case. Therefore, this claim - like all of its predecessors - is denied.

It is the opinion of the Board that an interpretation of the Rules and applicable circumstances such as found in this series of disputes should, in general, be left undisturbed subject only to an agreed-upon amendment of the Rules by the parties through collective bargaining. The principle of res judicata is well established and sound. It is applicable here.

The claim as presented herein is 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 22nd day of May, 2001.