

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36258
Docket No. SG-36297
02-3-00-3-531

The Third Division consisted of the regular members and in addition Referee Nancy Faircloth Eischen when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Co. (formerly Louisville & Nashville Railroad):

Claim on behalf of C. E. Stewart, A. L. Brown, S. A. Cox, W. E. Gunter, Jr., L. P. Grace, C. C. Pierce, Jr., W. E. Hinton, Jr., R. P. Endfinger, R. L. Stansberry, K. L. Brown, R. F. Bullock, Sr., E. J. Ward, S. J. Hamrysak, R. S. Hunter, D. L. Padgett, L. C. Satchfield, M. J. Day, F. R. Rogers, J. L. Blackwood, T. B. Rogers, C. W. Thompson, C. E. Wilson, J. W. Quinley, M. O. Stanfill, and B. B. Rogers, for payment of 1368.62 hours at the time and one-half rate, to be divided equally among the Claimants, account Carrier violated the current Signalmen’s Agreement, particularly Rules 51, 31, and 32, when beginning on June 5, 1999, and continuing through July 16, 1999, it allowed employees assigned to System Signal Gang No. 7XD3 to perform work, not covered under Rule 51, on Seniority District No. 6, and deprived the Claimants of the opportunity to perform this work. Carrier’s File No. 15 (99-189). General Chairman’s File No. 99-137-12. BRS File Case No. 11348-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.

The claim alleges that the rights of District Signal forces were violated when the Carrier utilized a System Signal Gang to locate buried cable and provide track protection for a contractor (Quest Communications) that was installing fiber optic cable along the right-of-way. By letter dated July 29, 1999, General Chairman B. M. Wilson filed a claim with District Signal Engineer D. M. Bearse alleging Rules 1, 32 and 51 were violated when the System Signal Gang was used to work in connection with Quest Communications personnel.

Rule 51, System Gangs - Special Rule reads, in relevant part, as follows:

“(a) System gangs will be confined to construction work on new installations, except for necessary maintenance changes in connection with a construction project, and in emergency cases such as derailments, floods, snow blockades, fires and slides.”

The Organization contended that System Signal Gangs were precluded from performing this particular work because it was “not a new installation or new construction” and claimed 1368.62 hours, at the overtime rate, to be evenly divided and paid to 25 employees working District Signal positions on Seniority District 6, on the basis that the work in question was reserved for performance by District forces. Our review of the record evidence leaves us unpersuaded that the Organization met its burden of proof that Rule 51 was violated. The Organization failed to effectively refute the Carrier’s evidence that the fiber optic cable installed by Quest was a new installation which, more importantly, was not part of the signaling system; albeit the System Signal Gang was used to provide track protection for the contractor’s on this construction project and to ensure that signal lines and equipment were not damaged. Denial of this claim for insufficiency of proof by the Organization is supported by a

long line of Board precedent. See, for example, Third Division Awards 15976, 21064, 25053, 29356, 29518, 33156 and 33977 et al.

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 28th day of October 2002.