

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36341
Docket No. SG-36007
02-3-00-3-104**

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 & 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 and S. D. Perry for payment of eight hours each at the straight time rate, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when on October 22, and 23, 1998, it allowed persons not covered by the Agreement to perform covered work at the Division Headquarters in Livonia, Michigan. Carrier’s File No. 15(99-62). General Chairman’s File No. 99-21-PM. BRS File Case No. 11178-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 case concerns itself with a purported installation of "routers" by some unidentified "employees of MCI" on October 22 and 23, 1998. The case record shows that both of the Claimants were on duty and under pay at the site where the alleged installation of the "routers" occurred. There is no indication that either of the Claimants voiced any objection to any Carrier representative relative to the performance by the "employees of MCI." Rather, from the case record, it is obvious that both the Claimants and the Organization laid behind the log until December 12, 1998, before voicing any objection to the alleged Scope Rule violation.

Nowhere in the case record is there any explanation or definition or identification of what a "router" is or what function it serves. The Carrier, in its denial of the claim, argued primarily that the claim for 16 hours was excessive. Nowhere in the on-property handling did the Carrier deny that the Scope Rule of the Agreement as cited by the Organization was or was not involved in this dispute. In its Submission to the Board, the Carrier relied on the language of the Scope Rule in support of its position and argues, for the first time, that the equipment installed on the dates in question was, in fact, owned by MCI and therefore "does not fall under the provisions of the Scope Rule."

The Board is dismayed in this case at the lack of attention to detail which is demonstrated by both parties involved in this dispute. The Organization, as the moving party, has the initial burden of clearly identifying the details of its allegations. The Carrier has the concomitant responsibility to include in its on-property handling of the claim all of its positions for rejection of the claim. Neither party can, for the first time before the Board, advance arguments which they failed to make on the property.

From the case record in this dispute, there is insufficient evidence or identification of details to permit the Board to make a determination of whether a Rule violation, in fact, occurred. Therefore, the claim is denied for lack of evidence.

AWARD

Claim denied.

Form 1
Page 3

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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 26th day of December 2002.