

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36568
Docket No. SG-36256
03-3-00-3-489**

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(The Kansas City Southern Railway Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railroad (KCS):

Claim on behalf of F. D. Haywood, for payment of 48 hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly the Scope and Classification Rules (Rules 1 and 2), when on March 23, 24, 25 and 26, it allowed Supervisory personnel to perform the duties of the Special CTC Maintainer, and deprived the Claimant of the opportunity to perform this work. This work consisted of installing and testing a new PC based computer system used to replace the current GRS mainframe system for the centralized dispatching terminal office in Shreveport, LA. Carrier File No. K0699-5317. General Chairman’s File No. 9902101. BRS File Case No. 11277-KCS.”

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 April 30, 1999, the Local Chairman filed a claim on behalf of “Special CTC Maintainer Mr. F. D. Haywood, Job #889.” The Local Chairman alleged that Signal Engineer V. A. Jones and Manager Network Systems Coordinator D. T. Davis “performed the duties of the Special CTC Maintainer on March 23, 24, 25, and 26, working 12 hour days.” The Local Chairman further alleged that:

“ . . . on March 23, 24, 25, and 26, 1999, Carrier officers performed the duties of the Special CTC maintainers position at Shreveport, LA. Testing PC based computer system being installed for the CTC dispatching terminal office at Shreveport, LA. Carrier officials Mr. V. A. Jones and Mr. D. T. Davis were installing and testing the new PC based computers by sending controls out and testing indications at field control points, which involved performing test that included, verifying all indication tests such as power off, illegal entry alarm, track circuits, power switch, snow melters, fleeting, and L.R. signal direction indications on the Carrier’s signal system.”

In its denial, the Carrier deemed the Organization’s allegations as “factually incorrect.” According to the Carrier, the “installation” took place on May 29, 1999 and that on the dates at issue, the software was still “under development and the verification is part of the engineering project.” The Carrier denied that such work is within the scope of duties a Special CTC Maintainer performs, and therefore, the Claimant did not suffer a loss of work.

The Carrier and the Organization were unable to settle this dispute and it is now before the Board for resolution.

Rule 1 - Scope of the Agreement provides in part:

“ . . . work shall include the construction, installation, maintenance, and repair of all signal equipment, such as signals automatic or otherwise), interlocking plants, highway crossing protection devices, wayside train stop and control equipment, car retarder systems, centralized traffic control systems, electric switch heaters, detector equipment connected to or through signal systems, including all their apparatus and appurtenances, signal shop work and all other work generally recognized as signal work; and it shall include the installation and replacement of solar power systems.”

Rule 2 - Classification states, in pertinent part:

“(g) SPECIAL CTC MAINTAINER: An employee whose principle duties (but not limited to) are - installation of equipment in CTC offices, to perform preventative maintenance, make necessary repairs to office and field CTC logic and make tests with field personnel.”

In response to the Organization’s April 30, 1999 claim, Signal Engineer V. A. Jones, one of the two supervisors who allegedly performed work belonging to a Special CTC Maintainer, flatly contradicted the Local Chairman regarding both the dates and nature of the work now in dispute. Specifically, Signal Engineer Jones stated:

“The Dispatching System you are referring to in your claim is unlike the existing dispatch system in that it is PC based and the dispatch software application runs on PCs which are supported by the IT department and they communicate over the KCS Network via Ether Net which is also supported by the IT department. On August 11, 1997 Alstom Signaling was commissioned to supply a software application to run on KCS PCs and KCS Network to replace the existing Mini-mainframe technology that was in service. In your claim you stated that: ‘Carrier Officials, Signal Engineer, Mr. V. A. Jones and Manager Network Systems Coordinator, Mr. D. T. Davis, performed the duties of the Special CTC Maintainer on March 23, 24, 25, and 26, working 12 hour days. Which work included the installation and testing of a new PC based computer system.’ The installation of the new Dispatch system did not take place until Saturday, May 29, 1999. The testing you refer to in claim K-99-1, consisted of evaluation of the software package including Control and Indication bits to verify that the software is in compliance with the software design document. This software is still under development. The verification of software is necessary to the engineering of the system. The Special CTC Maintainers duties do not include software engineering or development nor do they include the work of the IT department which has always included installation and maintenance of PCs and Networks. No part of the ‘Scope’ refers to or should refer to system engineering. The Carrier did not perform any work covered by the scope of the Signalmen’s Agreement. The Carrier did not violate any part of the contract, nor was there any loss of work opportunity for the Special CTC Maintainer therefore the request for 48 hours pay at the applicable overtime rate is denied.”

At each step of the appeal process, the Organization had the opportunity to submit evidence to rebut Jones’ eyewitness statement of what occurred and the dates it occurred, but did not do so. Nor did the Organization proffer evidence in an effort to rebut Jones’ statements documenting the work that he and Davis allegedly did, and which the Organization maintained belongs exclusively to BRS-represented personnel. In short, the Organization simply did not submit the evidence necessary to substantiate its assertions in this case.

Under the circumstances, we find no violation of the Agreement occurred. Therefore, this claim is denied.

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 16th day of June 2003.