

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 36581  
Docket No. SG-36165  
03-3-00-3-337

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 Company (former Chesapeake**  
( **and Ohio Railway Company)**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Company (C&O):**

**Claim on behalf of G. S. Scruggs for payment of two hours and forty minutes at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Rule 25, when it failed to call the Claimant to ascertain the cause of a track circuit light at Mile Post 288.6 near Covington, Virginia on February 20, 1999, and instead used a person not covered by the Agreement to perform the covered work. Carrier’s File No. 15 (99-118). General Chairman’s File No. 99-22-CD. BRS File Case No. 11179-C&O.”**

**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 instant claim had its origin in a letter dated March 31, 1999, from the Organization which stated as follows:

“The instant dispute was triggered on February 20, 1999, at MP 288.6 at or near Covington, VA, when the carrier used a track inspector from the M of W Department to ascertain the cause of a track circuit light in that area.”

The Carrier denied the claim indicating that there was no record of any track circuit problem in the area of or on the date of the claim as presented by the Organization.

Throughout the entirety of the on-property handling of the dispute, the Organization offered nothing more than its assertion as originally presented. No probative evidence to support the assertion was advanced by the Organization. Therefore, the Board is left with an unsupported assertion of work allegedly performed with no proof that the alleged work was, in fact, performed.

The Organization failed to meet its burden to support the contention that a Rule violation occurred.

The claim is denied for lack of proof.

**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 16th day of June 2003.