

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36681
Docket No. SG-36343
03-3-00-3-584

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(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):

Continuous time claim on behalf of E. A. Jarvis, R. A. Blacketer, T. J. Blakley, D. J. Norman, J. L. Denny, S. W. Denny, M. L. Eldridge, J. E. Batton, J. M. Phillips, L. R. Cundiff, V. P. Thomas, M. R. Heck, T. A. Reed, R. J. Birkenfeld, S. F. Sievers, and A. E. Sheppard, for payment of \$15,187.50 each, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule (Rule 1) and Rules 10, 37, 38 and 39, when beginning on June 14, 1999 through July 30, 1999, and continuing it allowed employees of the former B&O Railroad to perform work on the assigned property of the Claimant, depriving the Claimants of the opportunity to perform this work. Carrier's File No. 15 (99-0220). General Chairman's File No. 99-25-02. BRS File Case No. 11351-C&EI.”

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.

During the claim period, the Carrier utilized three Maintenance of Way Tie and Surfacing Gangs ("T&S Gangs") to install more than one hundred thousands ties and surface miles of track on former C&EI territory. In connection with that major system renovation project, the Carrier assigned a contingent of some 50 signal force employees, consisting of 14 of the 16 named Claimants (two were on vacation) and four System Signal Construction Gangs ("System Gangs") from the former B&O property, to perform the work of replacing thousands of signal cables and wires, from June 14 to July 30, 1999. The Claimants, all of whom were Signal Maintainers covered by the former C&EI Agreement, claim that performance of that work by anyone but themselves was prohibited under the following language of that Agreement:

"SCOPE

This agreement covers rates of pay and working conditions of all employees in the Signal & Telegraph Department specified herein.

Signal work includes the construction, installation, maintenance, repair and renewal of all signals, interlocking, centralized traffic control systems, train control and cab signal equipment, highway crossing protection devices, slide detector devices connected with the signal system, car retarder systems, electric switch locks, spring switches, pipe connected derails to hand throw switches, electronic devices used in connection with signals and interlockings, and their appurtenances; signal shop work and all other work generally recognized as signal work."

"Rule 10

No person or persons other than those coming under the classification rules and holding seniority under this agreement are permitted to do any of the work as described under the scope of this agreement. This does not prohibit supervisory officers from making tests or inspections other than routine or periodical tests, except they may make such tests for the purpose of determining whether employees coming within the scope of this agreement are properly maintaining, testing, or inspecting apparatus assigned to their care."

The Organization's prima facie showing of violation of the foregoing language from the former C&EI Agreement does not take into account the overriding effect of the following language from Section 2 Signal Team Flexibility in the October 30, 1998 Agreement (CSXT Labor Agreement No. 15-93-98), negotiated between these Parties in connection with the integration of Conrail signal forces:

"Any CSXT Signal Construction Team may work up to two hundred (200) miles off of their property (region in the case of CSXT Northern) to perform signal construction work."

Nor, given the legion of precedent Awards on this subject, should there any longer be any doubt that a major system reconstruction and renovation project of the volume, complexity and scope performed in this case was not "signal maintenance work" but rather "signal construction work," within the commonly understood meaning of those operative terms. See Third Division Awards 33152, 33155, 33156, 32599, 32292; see also Awards 36258, 36206, 35079; Cf. Award 32802. Based on all of the foregoing, we are not persuaded that the Carrier violated Rules 1 or 10 of the former C&EI Agreement by using System Signal Construction Gangs to replace track wires and track connectors collaterally damaged by a Maintenance of Way System Production Gang performing a major tie-renovation construction project during the period of June 14 through July 30, 1999.

Form 1
Page 4

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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 18th day of August 2003.