

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37014
Docket No. SG-37612
04-3-02-3-743

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Baltimore &
(Ohio Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (CSXT):

Claim on behalf of W. M. Sheckles, Jr., M. T. Gaver, V. K. Kennedy, B. L. Watkins, M. A. Tarleton, T. E. Painter, J. L. Eagle, Jr. and R. W. Graves, for 200 hours at the straight time rate of pay and 8 hours at the time and one-half rate of pay to be divided equally among the Claimants, account Carrier violated the current Signalmen's Agreement, particularly CSXT Labor Agreement No. 15-18-94, when it allowed System Signal Construction Gang #7X18 to perform maintenance work on the Shenandoah Sub-Division at Route No. 11 road crossing at MP 35.7 on August 21, 2001, and September 4, September 5, and September 6, 2001, and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 15(02-0014). General Chairman's File No. BWE-1-01-02. BRS File Case No. 12411-B&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.

At all relevant times herein the Carrier utilized System Signal Construction Gang No. 7X18 to temporarily remove and reinstall a highway grade warning system, including a crossing gate mechanism, mast and lights, and renewing track wires, so that an outside contractor could construct and install a water line at the Route 11 crossing on the Shenandoah Subdivision. The Organization contends that the work in question was maintenance work and, therefore, should have been assigned to Baltimore West End Seniority District personnel.

This is not the first time that this issue has arisen between these parties on the same property. In support of its claim the Organization cites Third Division Award 32802. The Carrier cites Third Division Award 35079 as a basis for denying the claim. The latter Award analyzed CSXT Labor Agreement No. 15-18-94 and sanctioned the Carrier's use of System Signal Construction Gangs to perform the type of work at issue in this case. We find the logic of Award 35079 (as well as the logic set forth in Awards 21064 and 29518, both of which interpreted a similar Rule on the former Louisville and Nashville Railroad Company, i.e., another CSXT component road) more applicable to the facts of the instant claim because the work involved herein (the total removal and relocation of a highway crossing mechanism) is much more akin to "construction," rather than routine "maintenance," and thus is the not the exclusive reserve of the Claimants herein.

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 18th day of May 2004.

Labor Member's Dissent to
Award 37014
Docket No. SG – 37612

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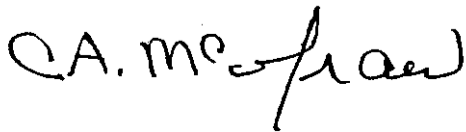
As noted in the Findings the Board stated that "...the work involved herein (the total removal and relocation of a highway crossing mechanism) is much more akin to 'construction', rather than routine maintenance..."

The record of handling indicates that the crossing mechanism was not removed and then relocated (put back in/at the another location from which it was taken down). The fact is that it was never "relocated" as stated in the Findings.

Contrary to the Findings of the Board this work should have been considered maintenance work. This type of work is reserved to the Claimants and not the System Signal Construction Gang. As noted in CSXT Labor Agreement No. 15-18-94 this type of work is not considered construction work but maintenance work on the B&O property. The Boards reliance on a dispute involving the L&N property is misplaced.

Based on the foregoing, the Organization dissents.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "C.A. McGraw".

C.A. McGraw,

Labor Member - NRAB