

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42919
Docket No. SG-43028
18-3-NRAB-00003-150224**

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood that:

Claim on behalf of R.M. Angel, R. Napier and C.R. Stamper, for Claimants Angel and Napier, 15.3 hours each at the Signalman’s time and one-half rate of pay, and for Claimant Stamper, 20.3 hours at the Signalman’s time and one-half rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rules 1, 7, 17, 18, 23, and 32, when on November 26-27, 2013 it permitted a Signal Manager and employees from Eastern Kentucky Seniority District #2 to repair a wayside signal located on the Claimants’ Seniority District, Cincinnati Seniority District #1, and thereby denied the Claimants the opportunity to perform this work. Carrier’s File No. 2014-157182. General Chairman’s File No. 13-176-02. BRS File Case No. 15094-L&N.”

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 Organization filed the instant claim on behalf of the Claimants, alleging that the Carrier violated the parties' Agreement when, on November 26-27, 2013, it permitted a Signal Manager and employees from Eastern Kentucky Seniority District #2 to repair a signal located within the Claimants' Cincinnati Seniority District #1, rather than assigning the Claimants to perform this work, and thereby denying the Claimants this work opportunity. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the Carrier had time to properly assign the Claimants to the work in question and because the Signal Manager improperly performed BRS Scope-covered work when he ran the backhoe during this signal replacement. The Carrier contends that the instant claim should be denied in its entirety because the Organization failed to meet its burden of showing that a rule violation occurred, because the Carrier is granted wide latitude in situations such as the one at issue, and because there is no merit to the Organization's position.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the record in this case, and we find that the Organization has failed to meet its burden of proof that the Carrier acted in violation of this Agreement when it did not have the Claimants perform the work that was performed by others. The fact remains that the Organization failed to provide any evidence that refuted the Carrier's contention on the property. The record reveals that the Claimants were not assigned nor did they have access to a boom truck. The employees that performed the work did have access to such a piece of equipment. Moreover, the Organization never refuted the Carrier's assertion that Claimant Napier was observing a vacation. Moreover, one of the Claimants was offered the opportunity to perform the claimed work but turned it down.

For all of the above reasons, this claim must be 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 14th day of February 2018.