

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISION

Form 1

Award No. 4872
Docket No. 4845
93-4-91-4-23

The Fourth Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications
(International Union
(CSX Transportation, Inc. (former
(Louisville and Nashville Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood (GL-10592), that:

1. Carrier violated the Agreement on August 12, 1989, when it instructed and/or permitted an employee not covered by our Agreement to perform work that is reserved for Communication Department employes working under our Agreement.
2. Because of this violation, Carrier shall compensate Communication Maintainer J. L. Bradshaw, ID 186157, for four (4) hours at his regular rate of pay."

FINDINGS:

The Fourth Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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 waived right of appearance at hearing thereon.

The Claimant in this case was employed as a Communications Maintainer covered by the T & T (Telephone and Telegraph) Rules Agreement. The claim as presented alleges a violation of the Scope Rule as well as Rule 2(d) - Classification and Duties of the same Agreement covering the employees of the Communications Department.

The specific fact situation of this claim centered around the use of an Operator, a clerical employee, to perform work described by Claimant as "...removed from service the base station radio from the depot at Carmi, Illinois...." This work consisted of pulling the electric plug from the wall outlet and removing an antennae connection from the radio.

The on-property argument of this case centered around the Organization's contention of exclusive right to perform all such work on the basis of the language of the "positions and/or work" Scope Rule and the Carrier's counter contentions of a "de minimus" action and an absence of proof of exclusivity of performance by the Communications Maintainers.

Before this Board, the same jurisdictional argument as was made in Fourth Division Award 4871 was repeated in this case.

The Board's position in this regard is adequately set forth in Award 4871. It is equally applicable in and dispositive of this case.

The claim as set forth herein is dismissed without prejudice on the basis that this Division does not have jurisdiction over the class of employees in which Claimant was assigned on the date in question.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1993.