

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION****John J. McGovern, Referee**

PARTIES TO DISPUTE:**BROTHERHOOD OF RAILROAD SIGNALMEN****FORT WORTH AND DENVER RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Fort Worth and Denver Railway Company:

On behalf of Messrs. J. D. Prince, L. F. Brumley, L. R. Thompson, H. W. Hardin, and I. J. LeCroy — members of Signal Gang No. 1 — for eight (8) hours' pay in addition to all other regular days, account on August 18, 1967, a pole hold was dug and 90-foot pole was set by Gilmer Construction Company of Fort Worth, Texas. (Carrier's File: SG-23)

EMPLOYEES' STATEMENT OF FACTS: This dispute arose because on August 18, 1967, the Carrier contracted the Gilmer Construction Company Inc., to dig the hole for, and set a 90 foot pole at North Yard, Fort Worth, Texas.

Claimants involved were all members of a signal gang working at the location where the work was performed and were available and qualified to perform the work involved.

Inasmuch as the contracting of the signal work was a violation of the Scope Rule of the current agreement an appropriate claim was filed on behalf of the employees who should have been assigned.

The Scope Rule of the Agreement reads as follows:

"SCOPE

This agreement governs the rates of pay, hours of service and working conditions of all employees in the Signal Department (except supervisory forces above the rank of foreman, clerical forces and engineering forces) performing the work generally recognized as signal work, which work shall include the construction, installation, maintenance and repair of signals, interlocking plants, highway crossing protection devices and their appurtenances, wayside train stop and train control equipment, car retarder systems, cen-

lead-in wire down the pole and connected it to the radio facilities in the yard office.

The agreement between the Fort Worth and Denver Railway Company and the Brotherhood of Railroad Signalmen effective November 1, 1946, is on file with the Board and by this reference is made a part of this submission.

OPINION OF BOARD: Carrier had to set a 90 foot pole in a 10 foot hole. It had neither the equipment for setting the pole nor did it possess a hole digging machine capable of digging a 10 foot hole in hard shale. Accordingly Carrier contracted out this work to an outside contractor whereupon the Organization contended Carrier violated its Agreement—specifically the Scope Rule. Carrier denied the claim on the grounds that it did not possess the specialized equipment required.

This Board has upheld Carriers' right to contract out work when special skills, equipment or material are required and are not possessed by either Carrier or its employees. We agree with that principle and will deny the claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of July 1970.