

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19421
Docket Number MW-18531

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Atchison, Topeka and Santa Fe Railway Company
(- Coast Lines -

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement and practices thereunder when it assigned or otherwise permitted other than B&B forces to install bumper blocks for overhead crane in Building #205, San Bernardino, California. (System File 130-234-32)

(2) B&B Mechanics H. L. Smith and Charles Johnson each be allowed eight (8) hours' pay at their respective straight time rates because of the aforesaid violation.

OPINION OF BOARD: In January 1968 Carrier assigned employees from its Shop Extension Forces to move bumper blocks for a new crane which they installed in Building No. 205 at San Bernardino, California. All parties agree that the installation of the crane was work properly assigned to the Shop Extension Forces. Claimants allege, however, that the bumper blocks are not an integral part of the crane but are, instead, a part of the building. Therefore they claim that the work of installing the blocks should have been assigned to them.

Carrier at first thought so too. However, after an inspection by supervisory personnel of the respective departments the assignment, in question here, was made.

The Scope Rule in the Agreement between these parties has been interpreted many times by this Board, in a manner adverse to the position of claimants. In Award 19373 the Board said:

".... the Board has rather consistently held that under Scope rules, such as this one, which are general rather than specific in nature, the Organization must prove that the work it claims has been assigned to employees of the class on an exclusive, system-wide basis."

The Organization has made a general assertion that the work has been performed by B&B employees in the past. That assertion has not been supported by evidence and under a principle long recognized by this Board is, therefore, of no affect. The claim must be **dismissed for failure of proof.**

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 Claim should be dismissed.

A W A R D

Claim **dismissed.**

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1972.