

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19506  
Docket Number SG-16749

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Southern Pacific Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Company that:

(a) The Southern Pacific Company violated the current Signalmen's Agreement effective April 1, 1947 (reprinted April 1, 1958, including revisions) when it failed and/or declined to apply the Scope Rule, which resulted in the violation of Rule 70 - the Loss of Earnings Rule - by assigning the recognized signal work of installing electric switch heaters and performing work on the signal electric transmission line to employees not covered by the Signalmen's Agreement, at Hotlum, Black Butte, Andesite, Grass Lake, Pennoyer, Kegg, and Mt. Hebron -- all in California and all located on the Shasta Division.

(b) Signal Foreman W. R. Anderson, Leading Signalman C. G. Mowdy, Signalmen J. L. Brown and R. Conrad (all members of Shasta Division Signal Gang #26) be allowed eight (8) hours each at their respective straight time rates of pay for each of the following dates: August 16, 17, 18, 19, 20, 23, 24, 25, 26, 27, 30, and 31, September 1, 2, 3, 7, 8, 9, and 10, 1965 -- a like number of hours as the Carrier assigned employees not covered by the Signalmen's Agreement to perform signal work. (Carrier's File: SIG 152-191)

OPINION OF BOARD: The dispute arose when Carrier assigned other than signal employees to install electric switch heaters at various locations in California between August 16 and September 10, 1965. The electric switch heaters were installed to replace gas heaters. They were installed by Maintenance of Way Electrical Department employees.

The claim is based on the Organization's contention that the work of installing the electric switch heaters is signal work covered by the Scope of the Signalmen's Agreement and when Scope work is farmed out, signal employees covered by the Agreement should be paid for an amount of time equal to that spent by others in the performance of such work.

Carrier counters by contending that the Scope Rule does not expressly reserve the work herein to employees represented by the Petitioner nor is work on electric switch heaters generally recognized as signal work. It further asserts that electric switch heaters are not actuated nor controlled through the signal system nor do they have any connection with Carrier's signal system. It has been customary, Carrier also maintains, to have Maintenance of Way employees handle the electric switch heaters.

The Scope Rule relied on by the Organization fails to specifically enumerate the installation of electric switch heaters as belonging to Employees of the Signal Department. Consequently, to prevail the Petitioner must show by competent evidence that by tradition, custom and practice on the property they have performed such work to the exclusion of all others.

This Board is of the opinion that the Petitioner has failed to sustain the burden thus imposed upon them. They failed to introduce sufficient evidence proving that the work in question by practice, custom, and usage has been performed by Signalmen to the exclusion of all others. Consequently, we must deny the claim.

Our decision in this case in no way detracts from our decision in Award 13676.

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 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1972.