

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19692
Docket Number SG-18078

Gene T. Ritter, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Soo Line Railroad Company

STATEMENT OF CLAIM: Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the Soo Line Railroad Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when between June 5 and 9, 1967, employees from the Communications Department repaired and tested two (2) thermo scanner gate units and one (1) power supply.

(b) Carrier be required now to pay Leading Relay Repairman C. **J. Hedi-**can, headquartered at the Signal Repair Shop in Shoreham, Minnesota, four (4) hours for each gate unit and power supply tested -- a total of twelve (12) hours -- at the Leading Relay Repairman's rate of \$3.3104 per hour for a total of \$39.72.

(Carrier's File: 900-46-B-97)

OPINION OF BOARD: Between June 5 and 9, 1967, employees from the Communications Department, members of the Electricians' Craft, repaired and tested two **thermo** scanner gate units and one power supply. The record discloses that notice of this dispute has been given the Brotherhood of Electrical Workers, who filed a submission in this dispute. The Signalmen's Organization alleges that employees covered by their Agreement installed the devices in question and have maintained and repaired them until the instant dispute. It is the contention of the Signalmen's Organization that the involved work is covered by the Scope Rule of the Signalmen's Agreement; and that the assignment of the installation, maintenance and repair of the work herein **involved**, since its existence on the Soo Line Railroad (about **4½** years), established this work as Signal work under that portion of the Scope Rule stating, "***and all other work generally recognized as signal work."; and that inasmuch as the installation of maintenance of the units involved in this dispute were performed by Signal employees, the repair of such units would naturally flow to them. Carrier contends that the involved work is new work, not contracted to Claimants, nor previously assigned to or performed by them; that the Signalmen's Organization served a Section 6 notice on Carrier, which attempted to include the involved work in their Scope Rule, but **was unsuccessful**, thereby admitting that this work does not belong to the Signalmen's employees.

The record in this dispute fails to sustain the position of the Organization. This work is not specifically mentioned in the Scope Rule of the involved Agreement. Therefore, in order to establish exclusive rights to this work, the Organization has the burden of proving, on the basis of past practice, on a system wide basis, that Signalmen had been assigned the involved work to the exclusion of all other crafts. The Organization has failed in this burden of proof as shown by Exhibits contained in the record which prove that shop testing and repair of Wheel Therm-scanner equipment had been assigned in the past to outside forces. Also, the record discloses that the involved Organization had unsuccessfully attempted to include the involved work in their Scope Rule by serving a Section 6 notice on Carrier. This Board is without authority to write a new rule in the involved Agreement which the Organization had unsuccessfully attempted to obtain through collective bargaining. This claim will be denied.

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 29th day of March 1973.