

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19779
Docket Number SG-18147

C. Robert Rosdley, 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 **Rail-** road Signalmen on the Southern Pacific Company that:

(a) The Southern Pacific Company violated the current Signalmen's Agreement effective April 1, 1947 and 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--Loss** of Earnings, by assigning the work of installing Switch Heaters on new drill track at **Dunsmuir**, California to employees not covered by the Signalmen's Agreement. The work of installing and maintaining Switch Heaters has for **many** years been performed by Signal Department Employees, covered by the Scope Rule of the Signalmen's Agreement. Our contention is further borne out by the fact that when these heaters fail to function the Switch fails to operate and a Signalman is called to determine why switch failed to operate.

(b) Messrs. **Fraga**, Killingbeck, Liggett, and Buckley be compensated for **8** hours each **at** their respective rate of pay for November 20, 21, 22, 23, 24, 27, 28, 29, 30, 1967, on these dates employees of the Electrical Department who are not covered by the Signalmen's agreement were used to install Switch Heaters at **Dunsmuir**. (Carrier's File: SIG **152-232**)

OPINION OF BOARD: This dispute **arose** when the Carrier assigned other than signal employees to install and **maintain** electric witch heaters **at Dunsmuir**, California between November 20 and November 30, 1967, inclusive. Petitioner alleges that this **action** violated the Scope Rule of the Agreement on the basis that the electric switch heaters involved are an integral part of the signal systems. The work at **issue was** performed by the Carrier's Maintenance of Way Electrical Department employees.

Under date of February 8, 1968 the Carrier, by letter to the General Chairman, denied the Organization's appeal claim by stating, in part, as follows:

"The switch heaters subject of this claim are not actuated or controlled through the signal system, but are automatically actuated electric switch heaters. Switch heaters of this type have not in the past been installed by signal employees nor has work of installing heaters of this type been considered as falling within the scope of the agreement covering signalmen, end the claim presented is therefore denied."

A careful review of Petitioner's presentation to **this** Board fails to show that the work involved has been reserved exclusively to Signalmen on the Carrier's system. On this point, the record shows that the employees to whom the Carrier assigned the work have appeared **as** interested third parties and have averred that it was proper and consistent with practice for the **Carrier** to assign the work as it did in this **case**.

We further note that the **same** issue, involving the Agreement between the same parties has, on numerous other occasions, been presented to this Board and, in each instance, the claims were denied or dismissed. In each such **case** Petitioner failed to prove the existence of a system-wide practice whereby the work in question has been exclusively reserved to Signalmen.

In Award 14284, we stated in pertinent part:

"The ultimate issue in this case is whether the work is '.... generally recognized **as** signal work.' This Board has consistently held that the Employees cannot establish an exclusive right to work that is not expressly reserved to them by the terms of their Agreement without affirmatively proving that the specified work involved has been performed by them during a controlling period in the past."

Also see Awards 13651, 18919, 19185, and 19506.

We do not find palpable error in the foregoing Awards and, therefore, we will deny this **claim**.

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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1973.