

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19868  
Pocket Number MW-19840

Burl E. Hays, Referee

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

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

(1) The Carrier violated the Agreement when it assigned or otherwise permitted Terminal Carpenter Earl Renfro and **Engineering** Department Employee **H. M. Baker** to install overlay panels on signs on the Southern Division beginning on or about July 23, 1968 (System File 130-155-A-1).

(2) **B&B** Painters George Hintz, Henry Renken, M. L. Argabright, M. G. Jones, L. P. **Fowler** and H. J. Roberts each be allowed an additional **2-2/3** hours of straight time pay for each day of the violation described in Part (1) above.

OPINION OF BOARD: On or about **July** 23, 1968 Carrier "assigned or otherwise permitted" Terminal Carpenter Earl **Renfro** and Engineering Department Employee H. El. Baker to install overlay panels on signs **on** the Southern Division of Atchison, Topeka and Santa Fe Railway System.

Claimants, as B&B painters, maintain that Carrier violated the agreements in that this work should have been assigned to them. **They** cite Award No. 13304 which states that "roadway signs....have historically **been** installed, maintained and painted by B&B painters."

Carrier contends that the only work **involved** in this dispute was the securing, by screws or bolts on overlay **panels** on already existing signs: that no painting of any kind was performed; that this work was not the exclusive right of B&B painters, and therefore the agreements **were** not **violated**.

In response to this contention Claimants point **out** that "the application of overlay panels is merely a change in the method of restoring **the** visibility of roadway signs and that such a change in the method of performing this work does not change the character thereof."

The Board is of the "pinion that Award No. 10369 (which follows the reasoning in previous Award No. 4637) is directly in point on this issue, wherein it states:

"We believe that the placing of overlay signs in this **case** was a new method for the repainting and/or re-lettering of existing signs. To this extent, the Carrier's change in the method of performing the work did not change the character of the work **being** performed. We are of the opinion that **this** work properly belongs to the Claimants."

In view of the decisions in these previous Awards **we** believe that in this **instance** this work properly belonged to Claimants and that Carrier did violate the terms of **the** Foreman's and Laborer's **Agreement**.

However, Carrier contends that Claimant L.P. Fowler "is not **a proper** claimant **as** he has relinquished his rights in **the** B&B Department in order to remain in the Track Department", and that on July 23 and 24, 1968, the dates this work was performed, Mr. **Fowler** worked as a **trackman** in the Track Department.

Carrier also contends that **Claimant** H. J. Roberts "ceased working in the B&B Department and **commenced** working in **the** Water Services Department as a plumber effective September 26, 1967"; that he performed such work on the dates in question, and therefore he is **not** a proper claimant.

These allegations are not **denied**. **It** is **the** opinion of the **Board** that L. P. Fowler and **J. H.** Roberts **are** not **proper** claimants. **and** that the claim on their behalf should be denied.

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 violated in accordance with the Opinion,

A W A R D

Claim sustained to the extent indicated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of July 1973.