

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22667
Docket Number SG-22320

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Chicago and North Western Transportation Company)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company:

(a) The carrier violated and continues to violate the current Signalmen's Agreement bearing effective date of June 1, 1951 especially the Scope Agreement by assigning and/or permitting other than Signal Department employes to maintain the car retarders at Escanaba Ore Dock, Escanaba, Mich.

(b) Carrier should now be required to compensate Signal Mtnr. Mr. D. E. Armstrong, headquartered at Escanaba, Mich., or any occupant of that position at his overtime rate of pay for all time spent by other than Signal Dept. employes, but no less than a minimum call for each and every day said work was performed, starting sixty (60) days prior to the date of this claim and continuing until this violation is corrected." /Carrier File: 79-13-17/

OPINION OF BOARD: Petitioner in this case seeks payment to Signal Maintainer D. E. Armstrong based upon an assertion that Carrier has violated the Agreement by permitting other than Signalmen to perform reserved work. In order to prevail, the Organization has the burden of supporting both essential elements of such a claim, to wit: 1) that outsiders performed the work for which claim is made and 2) that the disputed work is reserved to covered employes. The record presented in this case is devoid of any showing that outsiders performed the work in dispute. This evidentiary defect is fatal to the claim. Since the primary showing of performance is not made it is not necessary to decide the issue of reservation. Hence the present claim must fail on the first point without our deciding the remaining question.

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, 1923;

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: *A.W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 14th day of December 1979.

