

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22673
Docket Number SG-22493

James F. **Scearce**, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
of Railroad Signalmen **on** the Missouri Pacific
Railroad Company (**former** Texas & Pacific Railway Company):

On behalf of the following named members of Signal Gang 1506,
Addis, Louisiana, for the additional payments stated below, account
required to suspend work of their assignments in the month of September
1976, to **perform** work of another Craft, maintenance of the right-of-way
(Historically - Maintenance of Way employees' work), in violation of
Scope **Rule** (a) and Rule 62 of the Texas and Pacific **Signalmen's**
Agreement.

Claims

- 1 - **B. K. Nichols**, Signal Foreman, for 64 hours at his
straight time hourly rate, \$1523.13 per month -
(Sept. 10 - 5 hrs.; Sept. 13 - 3 hrs.; and 8 hours
each day - Sept. 14, 15, 16, 17, 20, 21 and 22).
- 2 - **C. R. Griswold**, Signalman, for 52.5 hours at his
straight time hourly rate, \$7.07 per hour - (Sept. 7
- 1.5 hrs.; Sept. 13 - 3 **hrs.**; and 8 hours each day -
Sept. 14, 15, **16, 17**, 21 and 22).
- 3 - **A. Troquille**, Assistant Signalman, for 64 hours at
his straight **time** hourly rate, \$6.02 per hour -
(Sept. 10 - 5 hrs.; Sept. 13 - 3 hrs. and 8 hours
each day - Sept. 14, 15, 16, 17, 20, 21 and 22).
- 4 - **G. Anzaldua**, Assistant Signalman, for 65.5 hours
at his straight **time** hourly rate, \$5.95 per hour -
(Sept. 7 - 1.5 hrs.; Sept. 10 - 5 hrs.; Sept. 13 -
3 hrs.; and 8 hours each day - Sept. 14, 15, 16,
17, 20, 21 and 22).

- "5 - K. D. **Corley**, Assistant **Signalman**, for 43 hours at his straight **time** hourly rate, \$5.95 per hour - (Sept. 13 - 3 hrs.; and 8 hours each day - Sept. 16, 17, 20, 21 and 22).
- 6 - El. C. **Guidry**, Assistant Signalman, for 21 hours at his straight **time** hourly rate, \$5.95 per hour - (Sept. 10 - 5 hrs.; and, 8 hours each day - Sept. 14 and 15).
- 7 - S. D. **Troquille**, Assistant Signalman, for 64 hoers at his straight time hourly rate, \$5.91 per hour - (Sept. 10 - 5 hrs.; Sept. 13 - 3 hrs.; and 8 hours each day - Sept. 14, 15, 16, 17, 20, 21 and 22).
- 8 - P. Robledo, Assistant Signalman, for **51** hours at his straight time hourly rate \$5.91 per hour - (Sept. 13 - 3 hrs.; and 8 hours each day - Sept. 14, 15, 16, 17, 21 and **22**)."

/Carrierfile: s 315-134/

OPINION OF BOARD: The issue in this case is one which has apparently **remained** unsettled over a series of claims. It addresses the obligation or authority for **members** of the "**signal** craft" to clear brush, vine, trees, etc. away from signal equipment and wires; if so, **must** such work be limited to "emergency circumstances" - **where** the integrity of such system is threatened by such brush, vines, trees, etc.; finally, is the performance of such work cwered by the prwisions of Rule 62:

"Except in extreme emergencies, **employes** cwered by this agreement will not be expected to perform work of any other craft nor will **employes** of any other craft be required to perform work coming within the scope of this **agreement**. This does not apply to maintenance of electrical equipment on water pumps or to testing outside telephone during regular working hours."

Assuming a violation is demonstrated what, if any, monetary obligation issues to the Carrier where, as here, Claimants were under pay during the period involved. The claim demands punitive payment for all hours worked performing such work, on the basis that the Carrier required it to be **performed** out of the "Scope" of the work of the affected employees.

The record indicates a protracted history of a recurring dispute where, until a letter was executed by the Superintendent of Signals and **Communications**, December 22, 1969, the rationale of the Carrier would appear to have been supported by decisions of this Board that such work was incidental to the more important **tasks** performed by represented employees. Thereafter, three Awards - 20979, 20980 and 21568 - supported the Organization based principally upon the aforementioned 1969 letter by the Superintendent of Signals and **Communication**. (This document indicated, *inter alia*, that any request for signal **maintainers** to cut brush would be limited to emergencies only and, when ~~done~~ such **employees** would be **compensated** at time and one-half. This letter was "**cancelled**" by the same supervisor March 15, 1976.) The Organization asserts herein the controlling status of the 1969 letter - notwithstanding its having been disavowed - and also that the work complained of was not of an emergency nature, but was, instead, for "cosmetic purposes."

Without engaging the specifics of the issues dealt with in Awards 20979, 20980 and 21568, we find lack of a basis to affirm the Organization's claims. The terms of the Agreement, which control the relationship between the parties, represents not the extent of the Carrier's authority, but rather its limitations; **consequently**, the Organization must demonstrate a specific provision of the **Agreement** which delimits its authority relative to clearing brush and **vines** away from signal and **communication** systems. The scope **Rule** is general in nature and thus cannot be relied upon. **Rule** 62 speaks to the work of another craft and the Organization must demonstrate that the work performed, if not specifically precluded under its **own** Agreement, was properly reserved for another craft. Essentially, **this** is a divestiture case: the Organization asserts a lack of jurisdiction. There is no evidence that any other **craft** has raised the claim to such work and the record gives an indication that the clearing of such growth has at least some relationship to the integrity of equipment and systems installed **and maintained** by the Organization.

While we shall deny the Claim, we are obliged to point out that the Carrier has contributed to the confusion surrounding the case. We shall not address the question as to whether a supervisor - in this case the Superintendent of Signals and Communications - can effect a change in working conditions between the parties, although such action, which stood for seven years before purportedly being "rescinded", **was** the basis upon which the Organization bases its claim.

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 **Employes** involved in this dispute are respectively Carrier and **Employes** 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 is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

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