

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29895
Docket No. SG-29187
93-3-90-3-71

The Third Division consisted of the regular members and in addition Referee Gil Vernon when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company
(Eastern Lines)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (SPTC-EL):

Claim on behalf of E. T. Gonzales, I. R. Pena and A. I. Slansky, for payment of 8 hours pay at their respective punitive rates of pay, account of the Carrier violated the current Signalmen's Agreement, as amended, particularly, the Scope Rule, when it used Maintenance of Way forces to move a signal at the rail-highway crossing on January 23, 1989, at Nolana Street in McAllen, Texas." Carrier file 480-29-A. BRS File Case No. 7768-SP-EL.

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

As Third Party in interest, the Brotherhood of Maintenance of Way Employees was advised of the pendency of this dispute but did not file a Submission with the Board.

The basic facts are not disputed. Due to the widening of the Nolana Street in McAllen, Texas, it was necessary to relocate the rail-highway signal and gate. All the wiring was disconnected and

reconnected, as well as tested by signal forces. However, a Maintenance of Way employee operated a boom truck which lifted the signal from its old location to its new location.

The Carrier, while acknowledging another craft was involved in the work, defends its action on several grounds. The most persuasive of these is its argument that the violation, if any, was de minimis, especially considering the amount of the claim.

The Board agreed that the de minimus doctrine is appropriately applied under these particular circumstances. We note a similar result under similar facts in Third Division Award 27763, a decision involving these same Parties.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Catherine Loughrin

Interim Secretary to the Board

Dated at Chicago, Illinois, this 26th day of October 1993.