

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30424
Docket No. SG-30329
94-3-92-3-67

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(The Atchison, Topeka and Santa Fe
(Railway Company

STATEMENT OF CLAIM:

"Claim of the General Committee of the Brotherhood of Railroad Signalmen on ATSF Railroad:

(a) Carrier violated the current Signalmen's Agreement particularly the Scope Rule, when it allowed an outside Electrical contractor (Green Electrical) of Stockton, CA., to install an AC meter pole to service signal locations at MP 1123 San Joaquin River Bridge.

Installation took 8 hours time.

(b) Carrier should now be required to compensate the members of Signal Gang #53 for the amount of 8 hours each for the work Green Electrical did which totals \$118.55 Foreman Booth, \$114.64 Reliefman Calabrese and \$99.68 for Helpers Buchanan and Crites."

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.

The crux of this dispute is the purpose for the installation of the new AC meter pole. It is undisputed that it replaced a 440 volt service that not only powered the signal equipment located at the bridge site, but also serviced the equipment that raised and lowered the bridge for river traffic.

It is also undisputed that, at the time the Claim arose, on or about August 17, 1990, only signal equipment was connected to the new metered service. On that basis, the Organization contended that the pole installation work was Scope Rule covered because there was no other use in progress. Cases cited by the parties suggest that such exclusive use installations are Scope covered.

Carrier, however, maintains that the new service will also power upgraded drawbridge raising equipment as well as pier lights, all of which will be installed. The new service, therefore, will have a multiple purpose. The timeframe for the installation of the additional equipment apparently depends on notice to demonstrate proper operation from the United States Coast Guard, which had not yet been received when the Claim arose or when the dispute was submitted to this Board.

The record developed on the property contains some disturbing variation in the Carrier's responses from one step to the next. Nonetheless, the Carrier consistently maintained that the new metered service would power other facilities at the bridge in addition to signal equipment. The Organization insisted its specific purpose was to power signal equipment.

As noted in Third Division Award 29376, this Board has a restrictive appellate role in resolving disputes. Our jurisdiction does not include the finding of facts that are not clearly presented to us by the written record of evidence developed in the parties' handling of the matter on the property. The facts surrounding the intended purpose of the new AC meter pole installation are sharply disputed, and the record does not contain sufficient probative evidence to resolve the issue in the favor of either the Organization's or the Carrier's position.

In light of the irreconcilable differences noted, we have no choice but to dismiss the Claim for lack of proof. See also Third Division Awards 29297 and 27178.

AWARD

Claim dismissed.

Form 1
Page 3

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O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 8th day of August 1994.