

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32796
Docket No. SG-32997
98-3-96-3-386**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Burlington Northern Railroad**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Railroad (BN):

A. Claim on behalf of D. E. Malone, D. L. Alexander, S. W. Boone, C. V. Tewart, and R. D. Koker for payment of 40 hours each at the straight time rate and 10 hours each at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it utilized other than covered employees to do excavation work for the installation of signal cables at Galesburg, Illinois, Classification Yards during the week of April 10, 1995, and deprived the Claimants of the opportunity to perform that work.

B. Claim on behalf of R. W. Bush, J. D. Williams, T. S. Anderson, R. E. Martinson and J. B. Glasgow for payment of 40 hours each at the straight time rate and 10 hours each at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it utilized other than covered employees to do excavation work for the installation of signal cables at the Galesburg, Illinois, Classification Yards during the week of April 4, 1995, and deprived the Claimants of the opportunity to perform that work. Carrier’s File No. SIA 95-08-03AA. General Chairman’s File No. C-30-95. BRS File Case No. 9892-BN.”

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 were given due notice of hearing thereon.

On April 4-6, 1995, the Carrier used a contractor - Flow Mole - to bore 12 and 18-inch holes under the Galesburg Hump. On April 10-13, 1995, Carrier utilized the same contractor to bore holes under the track in the bowl at Galesburg Yard. Those operations took 67.75 and 68 man-hours respectively.

The Organization has based its claim upon the theory that the work at issue was "trenching," and/or work performed by "hole diggers or pipe pushers," and was, therefore work reserved to the employees under the Agreement.

Carrier has argued throughout the processing of this case on the property that 1) the contractor used a new procedure - hydropower - to bore (not trench) holes more than 400 feet in length; 2) that it could not afford, nor was it able to rent the specialized equipment necessary for this work; and 3) there was a one-to-one ratio of Signalmen to the contractor's men.

The Board has made a thorough review of this record. It finds that the Organization's position is, in this case, unpersuasive. See in particular, Third Division Award 24538.

AWARD

Claim denied.

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ORDER

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 23rd day of September 1998.