

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35092
Docket No. SG-31787
00-3-94-3-62**

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

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

STATEMENT OF CLAIM:

“Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago & North Western Transportation Co. (CNW):

Claim on behalf of T. J. Yetmar and M. Gearhart for payment of eight hours each at the straight time rate, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it utilized other than Signalmen to perform the installation of appurtenances for a switch machine at West Denison, Iowa, on November 20, 1992, and deprived the Claimants of the opportunity to perform this work. Carrier’s File No. 79-93-10. General Chairman’s File No. S-AV-143. BRS File Case No. 9228-CNW.”

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.

As Third Party in Interest, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers was advised of the pendency of this dispute, but chose not to file a Submission with the Board.

This case involves a claim by the Organization that the Carrier violated the Agreement when it used employees other than Signalmen to perform the installation of appurtenances for a switch machine at West Denison, Iowa, on November 20, 1992. The work involved welding metal securing blocks to gauge plates on each side of the power switch machine. The Organization asserts that the performance of this work is reserved only to employees covered under the Signalmen's Agreement and that the Carrier's use of Track Department employees to perform this work therefore was improper. The Organization seeks on behalf of each Claimant eight hours pay at the straight time rate.

According to the Organization, the purpose of the latch stand and the braces that were welded to the switch plates was to secure the Signal Department's power switch machine. As such, the Organization claims, it is Signalmen's work. The Carrier's argument that the work involved special equipment and required employees with welding certification, the Organization argues, is an allegation that lacks record support. Rather, the Organization argues, the work is an integral part of the switch turnout as outlined in the Scope Rule, and it is work that Signalmen are qualified to perform.

The Carrier, on the other hand, states that it properly exercised its discretion to assign the work to certified Welders in the Track Department. The Carrier states that certified Welders were selected to perform the work in order to ensure welds that could withstand the heavy vibrations from train traffic. The steel blocks that were welded to the gauge plates, the Carrier argues, were required to stabilize the switch-power-mechanism assembly from lateral movement due to train traffic going through the switch and, according to the Carrier, had nothing to do with "the regulation of the movement of trains or the protection of highway crossings, etc.," which is the prerequisite for Signalmen's work. The Carrier asserts that the Scope Rule does not reserve any welding work to the Signalmen. In fact, the Carrier asserts, the disputed work has not previously been performed by Signalmen. Rather, the Carrier points out, welding on the right-of-way has been performed almost exclusively by Track Welders in the BMWE or Boilermaker/Blacksmith craft.

After reviewing the record evidence, we conclude that the Organization's claim should be denied. The Carrier's determination that the welding work should be performed by certified Welders in order to ensure that the power switch assembly would be properly secured against lateral movement caused by the heavy vibrations of train traffic was a legitimate exercise of the Carrier's discretion. Moreover, because welding work of the type performed here is not specifically reserved to Signalmen under the Scope Rule, the Carrier had the right to determine that certified Welders would be utilized for the disputed work. Certified Welders on the property are not in the Signalmen craft. Accordingly, the Carrier did not violate the Agreement when it utilized certified Welders in the Track Department to perform the disputed work.

AWARD

Claim denied.

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 15th day of November, 2000.