

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37543
Docket No. SG-36574
05-3-01-3-96

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company (former Chicago and
(North Western Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company (C&NW):

Claim on behalf of D. J. Zimmerman for payment of 2 hours and 40 minutes at the time and one-half rate. Account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule and Rule 10 when on December 17, 1999 Carrier allowed Track Inspector to check a track light indication on track #2, the South Track, west of CPA 148 at Marsalltown, Iowa. Carrier's action deprived the Claimant of the opportunity to perform this work. Carrier's File No. 1221568. General Chairman's File No. Nscope-024. BRS File Case No. 11552-C&NW.”

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.

In this claim, the Organization asserts a scope violation by reason of the Carrier's Track Inspector performing covered work on December 17, 1999 at Marshalltown, Iowa. For the reasons stated below, the claim will be denied.

The Claimant's January 10, 2000 claim maintains that the Carrier called out Track Inspector D. Stanton on the claim date to check out a track light indication on the Claimant's assigned territory. That action, it maintains, violated the applicable Scope Rule because Stanton was neither covered by the Agreement nor trained in signaling. The Claimant seeks pay for two hours and 40 minutes at the overtime rate for the alleged violation.

The Carrier does not contest the basic facts, admitting that around midnight on December 17 Stanton took a call from the Dispatch Center to inspect a track light for possibility of broken rail and did so. It states, however, that at the same time Signal Maintainer K. Hopwood was called, arriving at the scene after Stanton and then bonding broken angle bars for which he was paid two hours overtime. The inspection of track, the Carrier argues, is not Signalmen's work and the claim is without merit.

The Board agrees. The Scope Rules of the Agreement relied upon read as follows:

"Rule 1 SCOPE

This Agreement covers the classification, rates of pay, advancement, seniority, and working conditions of employees engaged in the construction, repairing, renewing, replacing, reconditioning, testing, and maintenance of signal or signal systems with all appurtenances on or along the railway tracks for the regulations of the movement of trains, protection of highway crossing, etc.

SCOPE RULE 10

10. No other person other than those coming within the scope of this agreement will be required or permitted to perform any of the above work."

The Board does not read the foregoing terms to require that a Signal employee be called first when a track light indication appears, but when signal work covered by the

Agreement is to be performed. In this instance the record reflects that the Harriman Dispatch Center normally called out a Track Inspector in extreme weather conditions, which was the case on the claim date. The record is devoid of any evidence establishing that after being called and reporting to the site Track Inspector Stanton performed any work comprehended by the Scope Rules cited.

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 20th day of July 2005.