

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37859
Docket No. SG-37684
06-3-02-3-777

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad

STATEMENT OF CLAIM:

- "1. Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific (UP).
2. Claim on behalf of E. L. Cline, for 65 hours, E. W. Brown, for 16 hours, and R. W. Shults, for eight hours, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule and Rule 80, when it purchased a remanufactured Model 5F, 24V, LH, Serial No. 0815ED-01, switch machine from an outside party on August 31, 2001, and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 1296076. General Chairman's File No. S-SR-1(a), (I), 5, 12, 80-207. BRS File Case No. 12286-UP."

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.

This case involves the Carrier's right to purchase equipment directly from a manufacturer. The Organization is attempting to lay claim under its general Scope Rule to the manufacturing work that occurs prior to the Carrier's purchase of the equipment.

On October 27, 2001, the Organization submitted the claim at issue. The claim alleged that the Scope Rule and Rule 80 had been violated when, on August 31, 2001, it was discovered that the Carrier had purchased a remanufactured switch machine from Rail Development Group. The claim alleged that the named Claimants, who work in the Carrier's Sedalia, Missouri, Signal Shop, respectively spend eight hours tearing down such machines, 16 hours rebuilding the motors for such machines, and 65 hours reassembling and adjusting such machines.

The Carrier responded to this claim in part as follows:

" . . . Rail Development Group along with several other companies, have second hand or used material available for our purchase. The machine in question was purchased directly by a field manager, and then discovered at Sedalia, while in transit to the field location. Prior to the carrier's purchase of this machine in August, this machine was never at the Sedalia Signal Shop, and therefore could not have been potentially rebuilt by the shop technicians. The signal shop will rebuild approximately 45 switch machines during 2001 by consolidating existing, non-working machines at Sedalia into a working, remanufactured machine. The Carrier will also purchase over 250 machines during 2001 from sources other than the signal shop and these machines may include second hand or used material. . . ."

The Organization has the burden to prove that the Agreement has been violated. The record is void of any evidence that Rail Development Group repaired any of the Carrier's equipment.

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The Board has held numerous times that the Carrier has the right to purchase remanufactured equipment without penalty as it is not a violation of the Scope Rule.

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 1st day of August 2006.