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# NATIONAL RAILROAD ADJUSTMENT BOARD THIRD DIVISION

Award No. 38074 Docket No. SG-36825 07-3-01-3-342

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

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company

#### STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company:

Continuing claim on behalf of S. L. Johnson, C. W. Lynch, H. J. Hunt, A. J. Jett, K. J. Svejkovsky, and L. E. Reitz for payment of 64 hours each at the time and one-half rate. Account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when on several dates in April and May of 2000, Carrier utilized outside contractors to construct, install, test and inspect compressed air plants at the Westward Classification Yard in North Platte, Nebraska. Carrier also allowed employees from the electrical department to perform electrical work on this project on April 27; May 4, 10 and 19, 2000. This action deprived the Claimants of the opportunity to perform this work. Carrier's File No. 1231541. General Chairman's File No. Nscope-078. BRS File No. 11700-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.

As Third Party in Interest, the International Brotherhood of Electrical Workers was advised of the pendency of this dispute, but chose not to file a Submission with the Board.

In this claim the Organization challenges the Carrier's use of a manufacturer's representative to assist Signal Department employees with the installation of a new type of compressor at the Westward Classification Yard, North Platte, Nebraska.

The record reflects that although Signal Department personnel were present and assisted with the challenged work, they were not qualified to perform the installation at issue without help from retained non-covered subcontractors. Accordingly, no loss of work opportunity by the Claimants is demonstrated. Credible record evidence further demonstrates that the assistance of the manufacturer's representatives was necessary to maintain the factory warranty on the compressed air plants.

Beyond the foregoing, the electrical work challenged here, involving 480 volt service, has never been accomplished by BRS-represented employees. Indeed, it appears to be of a type expressly excluded from the reach of Scope Rule 3.

For the reasons stated above, the claim will be denied

## <u>AWARD</u>

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 21st day of February 2007.