

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

At the outset the Board notes that the Brotherhood of Maintenance of Way Employees Division – IBT Rail Conference was accorded “third party” notice with respect to the present claim; it determined that a response on its behalf was unnecessary.

At the time this grievance arose, Claimants R. J. Rich and W. N. Wood were assigned as Signal Maintainers. On February 27, 2006, the Organization filed a claim on their behalf. The Organization contended that on February 27 and 28, 2006 the Carrier called BMW-represented employees to throw switches in the West Colton, California, Classification Yard. It asserted that they performed this work by means of a Total Control Hand Select which, according to the Organization, was installed by the Signal Department and is maintained by the Signal Department. The Organization stated that the Carrier thus violated the Scope Rule of the UP/BRS Agreement.

The Carrier denied the claim by letter of April 20, 2006. In that letter it disputed the Organization’s contention that it had violated any Rule of the Agreement. Further, the Carrier insisted, the Organization “had not supplied any proof that the BMW employees performed switch throwing duties on the dates stated.” Moreover, the Carrier argued that the work alleged in the Organization’s claim was not work reserved to the Signal Department; rather, it noted, the Track Subdepartment and Operating crafts all perform switch throwing duties at one time or another as a regular part of their responsibilities.

The Organization appealed the Carrier’s denial and reiterated its position that two Foremen from the Maintenance of Way work group in Colton Yard performed the switching work at issue. In that appeal the Organization provided the names of the two BMW-represented employees in question and reiterated that the Total Control Hand Select was specifically designed for Signal Department use. The Organization maintained that this violation of its Scope Rule constituted a loss of work opportunity for both Claimants.

In its June 8, 2006 denial of the Organization's appeal, the Carrier reaffirmed its position that switching is "clearly not a function performed exclusively by the Signal Department," and noted that switching is performed by Trainmen and Carmen, among others, as a regular part of their duties. Moreover, the Carrier protested the Organization's claim that the Total Control Hand Select was a device specifically designed for the Signal Department. Rather, the Carrier insisted, "the hand select is a tool that assists employees with throwing switches," and that such employees include Operating craft employees.

The claim was subsequently progressed in accordance with the Parties' Agreement, including conference on the property on August 1, 2006. It is therefore properly before the Board.

The Board carefully reviewed the extensive correspondence and other on-property documentation. As with all such cases, the Organization bears the burden of persuasion regarding reservation of the work at issue to BRS-covered employees, to the exclusion of other crafts or classes of employees. We do not find that the Organization has met that rather weighty burden. The correspondence exchanged between the parties contains no significant evidence that the work at issue is reserved to Signalmen. The Organization has not in any way cast doubt on the Carrier's assertion that the switching work claimed in this case is performed by numerous employees in numerous crafts as a routine part of their respective duties. Accordingly, we find no basis upon which to sustain this claim.

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 March 2010.