

Award No. 13184

Docket No. SG-13228

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Lee R. West, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN PACIFIC COMPANY
(Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Company that:

(a) The Southern Pacific Company violated the current Signalmen's Agreement effective April 1, 1947 (reprinted April 1, 1958, including revisions), particularly the Scope Rule and Rule 70.

(b) Mr. J. A. Oglesby and Mr. F. Howell be paid eight (8) hours at their respective rates of pay for each of the following days: December 20, 22, 27 and 28, 1960; January 16, 17, 18, 19, 20, 23, 24, 25 and 26, 1961. [Carrier's File: SIG 152-87; S-97-17-102]

EMPLOYEES' STATEMENT OF FACTS: On the dates listed in our Statement of Claim, the Carrier assigned and/or permitted employees not covered by the current Signalmen's Agreement to weld a stainless steel strip, or bead, on the rails at various road crossings near Martinez, California. As the only reason for this stainless steel to be welded on the top of the rails is to increase the shunting sensitivity of the track circuit, the Brotherhood's Local Chairman presented a claim on behalf of Leading Signalman F. Howell and Signalman J. A. Oglesby for eight hours' pay for each date mentioned in the Statement of Claim. The Local Chairman's original claim of February 11, 1961, to the Signal Supervisor is attached hereto and identified as Brotherhood's Exhibit No. 1. The claim was made on behalf of Messrs. Howell and Oglesby because they are the senior men in the mechanic's class on Signal Gang No. 2 at Martinez, and both of them are capable of performing the type of work in question. The Signal Supervisor's letter of denial of February 15, 1961, is Brotherhood's Exhibit No. 2.

On February 18, 1961, the Local Chairman advised the Signal Supervisor of the rejection of his decision, then appealed that decision to the Carrier's Superintendent on the same day. The Superintendent's denial of March 1, 1961, is Brotherhood's Exhibit No. 3.

On March 4, 1961, the Local Chairman notified the Superintendent of the rejection of his decision, then referred this matter to the Brotherhood's Gen-

existing practices are just as valid and enforceable as if authorized by the agreement itself (Awards 1257, 1568, 3461, 41054); and particularly when, as here, an existing practice is sought to be changed.

Claimants here have not conclusively established their rights to perform the work in question to the exclusion of others similarly employed, either through custom and practice on this property or under the terms of the contract. Thus, in effect, this Board is being asked to grant something the agreement does not provide. The rule that we are without authority so to do is too well established to require further comment.

In view of the foregoing, there is no basis for a sustaining award and the claim must be denied."

Since the Scope Rule does not confer upon claimants an exclusive right to the work involved, there was no violation of the current agreement, and claimants are entitled to no payment under Rule 70.

CONCLUSION

Carrier requests that the claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim arises by reason of Carrier's assigning work of welding a stainless steel strip, or bead, on the rails at various road crossings to Maintenance of Way personnel. The Brotherhood of Railroad Signalmen argue that such work belongs to Signalmen under a Scope Rule which includes the phrase "and all other work that is generally recognized as signal work."

We have considered this issue under a similar fact situation in Award 13181. Therein we denied the claim, holding that the work involved has been traditionally performed by other than Signalmen. The holding in that case is clearly applicable to this case, and the reasoning in that case is hereby adopted in this opinion.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of December 1964.