

Award No. 13336
Docket No. SG-12985

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, 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, when it failed and/or declined to apply the Scope Rule or other provisions of the Agreement, in not assigning recognized signal work to Signal Department employes on March 2, 1960. Such work being that performed by track forces in removing snow from spring switches at Hito and Coalco, on Signal Maintainer Hanneman's assigned district.

(b) Mr. R. C. Hanneman, Signal Maintainer, Canby, be allowed 2 hours and 40 minutes at the overtime rate of Signal Maintainers' pay and 2 hours at the straight time rate of Signal Maintainer for March 2, 1960. (Carrier's File: SIG 152-74.)

EMPLOYES' STATEMENT OF FACTS: The claimant in this dispute is the Signal Maintainer at Canby, Oregon, Mr. R. C. Hanneman. On March 2, 1960, the Carrier assigned and/or permitted track forces who hold no seniority or other rights under the Signalmen's Agreement to remove snow from spring switches on Signal Maintainer Hanneman's assigned territory. On March 21, 1960, Signal Maintainer Hanneman wrote the following letter to Mr. R. P. Holland, Signal Supervisor:

"With this letter I submit a claim of a call (2 hours and 70 minutes at overtime rate) plus two (2) hours at straight time pay account track forces cleaning snow out of spring switches and installing heaters during regular working hours at Coaleo and Hito on the date of March the second (3-2-60).

Under the signalman's scope of the signalmen's agreement with the company, it is our responsibility of all adjustments and keeping spring switches clean of all obstructions, such as sand, chips, stones, etc. I feel this also includes snow.

CONCLUSION

Carrier requests that if not dismissed, the claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: That track forces removed the snow as alleged in paragraph (a) of the Claim is not disputed.

There is no evidence of any failure of signal equipment.

The issue is whether Signalmen, by virtue of the Scope Rule of the Agreement, are vested with the exclusive right to remove snow from spring switches.

The Scope Rule, *inter alia*, covers employees " * * * engaged in the construction, reconstruction, installation, maintenance, testing, inspecting and repair of * * * spring switch locking devices * * * " (Emphasis ours.) The emphasized words, say Signalmen, vest the employees covered by the Agreement with the exclusive right to remove snow from spring switches.

The contention of Carrier that the work of removing snow from switches has never been exclusively performed by Signalmen is supported by the record. Therefore, the question to be resolved is whether the Scope Rule supports the position of Signalmen.

Carrier has cited a number of Awards in which we held that as a general proposition the removal of snow belongs to maintenance of way employees; but, it may be done by employees in other crafts and classes as an incident of their work. For example, Award Nos. 4593 and 4948. And, reasonable men may differ as to whether "maintenance" of signal equipment is an exclusive grant of the work of snow removal from such equipment. Consequently, the principle, that when we find ambiguity in a scope rule the burden is upon petitioner to prove that historically and customarily the work involved has been exclusively performed by employees covered by an agreement, is applicable. Signalmen have not satisfied that burden. We will deny the Claim.

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 Employees involved in this dispute are respectively Carrier and Employees 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1965.