

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19417
Docket Number SG-18965

Arthur W. Devine, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the former New York, Chicago and St. Louis Railroad Company that:

On behalf of Leading Maintainer G. M. Harshbarger, Fort Wayne, Indiana, for 3 hours pay at his overtime rate account Communication Department employees made tests and adjustments on October 7, 1968, on Sidney and Arnold inspect train signal control carrier transmitters located in East Wayne Dispatcher's office.

/Carrier's File: chm/jsm/

OPINION OF BOARD: The claim herein arose because allegedly other than signalmen made certain tests and adjustments on equipment which the Petitioner has described as "the Sidney and Arnolds inspect train signal control carrier transmitters located in the dispatchers office at East Wayne, Ind."

The Scope Rule of the applicable agreement reads -

"This agreement governs the rates of pay, hours of service, and working conditions of all classes of employees enumerated in Rules 2, 3, 4, 5, 6, 7, and 8, performing work generally recognized as signal work."

In the handling of the dispute on the property the Petitioner contended that the work in question was "generally recognized signal work." The Carrier steadfastly denied that the work was "generally recognized signal work", and contended that the work was of a nature which has been allocated to communication workers on a system-wide basis.

Scope rules such as the one here involved are what have been characterized as being general in nature, in that they do not describe or delineate work, and where claims are made that certain work is "generally recognized signal work" and denied by the carrier, then the burden is upon the Petitioner to come forward with probative evidence to support its contention by practice, custom and tradition. In the handling of the instant dispute on the property the Petitioner did not meet the burden of proof required of it to show that the work involved was "generally recognized signal work." We have no alternative but to dismiss the claim.

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FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1972.