

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19670
Docket Number SG-19353

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it used Division Lineman Holmes of Ottumwa, Iowa, to assist Signal Maintainer Williams of Ottumwa, Iowa, to clear signal trouble on crossing signals in East Moline, Illinois, on September 3, 1969.

(b) The Carrier now pay Signal Maintainer M. C. Lennon eight and one-half hours at time and one-half rate for eight and one-half hours work done by a Division Lineman in assisting Signal Maintainer Williams at East Moline, Illinois, on September 3, 1969. (Carrier's File: Case F-1065)

OPINION OF BOARD: Petitioner claims that Carrier violated the Agreement, particularly the Scope Rule, when it used a Division Lineman (a classification not covered by the Agreement) to assist a Signal Maintainer to repair a crossing signal in East Moline, Illinois on September 3, 1969.

An examination of the record indicates that it is singularly devoid of evidence in support of the Claim. Although cogent arguments have been advanced by Petitioner, we fail to find facts to support the allegations. In this case the Carrier has denied that the Lineman performed any work covered by the Scope Rule of the Agreement; it then became incumbent upon the Organization to advance proof to support its contentions. No evidence has been presented in support of the position that work under the Scope Rule was performed by the Lineman.

We have long adhered to the principle that the burden of proof is upon Petitioner. As an example, in Award #11236 we said:

"We have no affirmative evidence from the Organization's record sustaining their claim, except mere assertions which is not the equivalent of proof."

Since Petitioner has not sustained its burden of proof, we shall dismiss the claim.

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 should 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 23rd day of March 1973.