

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19779
Docket Number SG-18147

C. Robert Roadley, 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 and reprinted April 1, 1958, (including revisions), when it failed and/or declined to apply the Scope Rule which resulted in the violation of Rule 70--Loss of Earnings, by assigning the work of installing Switch Heaters on new drill track at Dunsmuir, California to employees not covered by the Signalmen's Agreement. The work of installing and maintaining Switch Heaters has for many years been performed by Signal Department Employees, covered by the Scope Rule of the Signalmen's Agreement. Our contention is further borne out by the fact that when these heaters fail to function the Switch fails to operate and a Signalman is called to determine why switch failed to operate.

(b) Messrs. Fraga, Killingbeck, Liggett, and Buckley be compensated for 8 hours each at their respective rate of pay for November 20, 21, 22, 23, 24, 27, 28, 29, 30, 1967, on these dates employees of the Electrical Department who are not covered by the Signalmen's agreement were used to install Switch Heaters at Dunsmuir. (Carrier's File: SIG 152-232)

OPINION OF BOARD: This dispute arose when the Carrier assigned other than signal employees to install and maintain electric switch heaters at Dunsmuir, California between November 20 and November 30, 1967, inclusive. Petitioner alleges that this action violated the Scope Rule of the Agreement on the basis that the electric switch heaters involved are an integral part of the signal systems. The work at issue was performed by the Carrier's Maintenance of Way Electrical Department employees.

Under date of February 8, 1968 the Carrier, by letter to the General Chairman, denied the Organization's appeal claim by stating, in part, as follows:

"The switch heaters subject of this claim are not actuated or controlled through the signal system, but are automatically actuated electric switch heaters. Switch heaters of this type have not in the past been installed by signal employees nor has work of installing heaters of this type been considered as falling within the scope of the agreement covering signalmen, and the claim presented is therefore denied."

A careful review of Petitioner's presentation to this Board fails to show that the work involved has been reserved exclusively to Signalmen on the Carrier's system. On this point, the record shows that the employees to whom the Carrier assigned the work have appeared as interested third parties and have averred that it was proper and consistent with practice for the Carrier to assign the work as it did in this case.

We further note that the same issue, involving the Agreement between the same parties has, on numerous other occasions, been presented to this Board and, in each instance, the claims were denied or dismissed. In each such case Petitioner failed to prove the existence of a system-wide practice whereby the work in question has been exclusively reserved to Signalmen.

In Award 14284, we stated in pertinent part:

"The ultimate issue in this case is whether the work is '.... generally recognized as signal work.' This Board has consistently held that the Employees cannot establish an exclusive right to work that is not expressly reserved to them by the terms of their Agreement without affirmatively proving that the specified work involved has been performed by them during a controlling period in the past."

Also see Awards 13651, 18919, 19185, and 19506.

We do not find palpable error in the foregoing Awards and, therefore, we will deny this 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 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 was not violated.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *E. G. Killen*
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1973.