

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20157
Docket Number SG-19968

Irwin M. Lieberman, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(St. Louis-San Francisco Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the St. Louis-San Francisco Railway Company that:

(a) Carrier violated the Signalmen's Agreement, particularly the Scope, when, on or about December 18, 1970, Carrier's track forces were required or otherwise permitted to remove the signal bond wires and signal fouling wires in connection with removal of a frog at MP G-421 + 38 poles, north track.

(b) Carrier should now pay to Signal Maintainer C. D. Bradshaw additional time equal to 2.7 hours at his overtime rate.

(Carrier's File: D-6454)

OPINION OF BOARD: On December 18, 1970, Maintenance of Way employees were called to change a defective frog on the main track near Tulsa, Oklahoma. These track forces removed a piece of rail from the turnout and installed this piece of rail in the main line; incidental to this work some bond wires were removed. On December 21, 1970 the Track forces reinstalled the frog in lieu of the temporary section of rail and returned the rail to the turnout. Claimant was present during this reinstallation and he replaced the bond wires in their original position.

Petitioner claims that the breaking of the bond wires was work reserved to employees represented by the Organization by the Scope Rule. It is contended that the Claim is supported by that portion of the Scope Rule reading:

"... and all other work generally recognized as signal work."

The Organization asserts that the work in question has traditionally been recognized as Signalmen's work covered by the Scope Rule. Substantial reliance is placed on numerous prior Awards of this Board holding that such work is properly reserved to Signalmen.

Carrier contends that the work is not exclusively reserved to Signalmen by Agreement since the portion of the Scope Rule relied on is general in nature. Furthermore Carrier states, supported by evidence, that Track Department employees on this Carrier's property have participated with Signalmen in the removal, application and maintenance of bond wires since January 25, 1915, which preceded the first agreement with the Signalmen's Organization.

In all of the relevant Awards cited by Petitioner with analogous claims, there was either a specific rule provision or practice which supported the Organization's position. We find none of the rule provisions of those Awards present on this property. However in Award 18158 we find an almost identical rule and factual situation and in that Award we denied the claim stating that Carrier had submitted substantial evidence in support of its contention with respect to past practice and Petitioner had submitted none. Since there is no industry-wide practice and the Organization relies on the "generally recognized as Signal Work" phrase, the burden is on Petitioner to establish exclusivity (See Award 19823 and numerous other Awards). In this case Petitioner has submitted no evidence whatever as to practice on this property in support of its contentions.

On the record of this case, based on the rule in this Agreement and the practice on this property, there is no basis for a sustaining Award.

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 the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1974.