

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21768  
Docket Number MW-21586

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Southern Pacific Transportation Company  
( (Pacific Lines)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when other than Water Service Sub-department forces 'installed pipe, fittings and connections for soap lines, water lines and steam lines at the South West Laundry Track' beginning on April 30, 1973 and continuing through May 4, 1973 (System File MofW 152-784).

(2) The Agreement was again violated when other than Water Service Sub-department forces 'disconnected and installed steam and water lines in the vicinity of the Fire Line on October 25, 1973.' (System File MofW 152-788).

(3) Because of the violation described in (1) above, Water Service Employees David Gifford, Don Beaver, Jerry Beaver, Charles F. Donehue and H. F. Martinez each be allowed 24 hours' pay at their respective straight-time rates.

(4) Because of the violation described in (2) above, Water Service Employees David Gifford, Don Beaver, Charles F. Donehue and Hector Martinez each be allowed 12 hours' pay at their respective straight-time rates."

OPINION OF BOARD: The Employees assert that Carrier deviated from utilization of water service forces to install pipe, fittings and connections for soap lines, water lines and steam lines.

Carrier asserted, on the property, that all piping involved in the dispute was on the "...shop side of the service valve originally installed by the Water Service Department and was performed in accordance with the past practice in connection therewith."

It is unquestioned that in order to prevail in this type of a dispute, the Employees must, as an ingredient of the burden of proof, present to us substantive evidence to support all aspects of the case. We have considered, in detail, all of the documents which comprise the handling of the matter on the property. But, we are still unable to ascertain, with any degree of certainty, the location of the service line valve. Accordingly, we are unable to sustain 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 be dismissed for failure of proof.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A.W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October 1977.

