

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22714  
Docket Number SG-22811

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Missouri Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Missouri Pacific Railroad Company:

On behalf of Signal Foreman D. L. Landrum, Signalmen K. R. Shaver and J. R. Tyson, and Assistant Signalmen R. D. Gatewood, L. L. Barnes and R. A. Martinez, for 21 ½ hours' each at their time and one-half rate account they were not allowed to take down signal line wires at Spring, Texas. Instead, the Communications line gang was used to perform this work in violation of the Scope Rule, 6 ½ hours on August 18, 5 hours on August 19, 8 hours on August 22, and 2 hours on August 23, 1977."

[Carrier file: B 225-759. General Chairman file: M-(206)]

OPINION OF BOARD: This dispute arose when the respondent Carrier used Communication forces to dismantle and remove a segment of dual purpose pole line which had formerly been a part of its communication and signal systems. A new segment of pole line located on the side of Carrier's tracks opposite from the old pole line had been constructed by using both Communication and Signal forces. The new segment had been placed into service, and use of the old segment discontinued.

The petitioning Employees contend that the Carrier's conduct constituted a violation of the parties' Agreement. That Agreement embraces the work of " \* \* \* the construction, installation, maintenance, repair, inspection, and testing of signals and signal systems [etc.] \* \* \* and all other work generally recognized as signal work \* \* \*."

We are constrained to observe that the Petitioner has not shown that the work in question constituted, or was any part of the construction, installation, maintenance, repair, inspection or testing of a signal or signal system [etc.]; neither has Petitioner shown that work of the type here in question has by custom, tradition or practice been recognized by these parties as constituting signal work. It follows that the Petitioner

has not made a prima facie case and thereby has failed to meet its minimum burden of proof. In the light of this holding it is not necessary that we examine the Carrier's defenses, and our not doing so does not constitute an endorsement of them.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January 1980.

