

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26566
Docket Number SG-26576

Peter R. Meyers, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company (Eastern Lines)

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Eastern Lines):

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when it permitted persons not covered by that agreement - employees of the Bridge and Building Department, hereafter referred to as employees of the B&B Department - to perform signal work of installing train control type cantilevers at the East and West end of Kirby siding, Kirby, Texas, commencing on or about August 24, 1984, near Milepost 201.3 (East Kirby) and 203.4 (West Kirby).

(b) Carrier should now be required to compensate its Signal Construction Gang #8 employees assigned to the Alamo Region, headquartered at San Antonio, Texas namely: Foreman D. W. Bachhofer, Signalman Driver D. A. Hale, Signalmen R. Ramirez, R. M. Rodriguez, A. I. Slansky, M. W. Fricks, and K. M. Bailey, additional time on a prorated basis equal to the man-hours of work the B&B forces or persons not covered by said agreement performed in connection with the above referred to signal work, as a consequence of the violation and/or the loss of work opportunity.

(c) Carrier should check its records jointly and in cooperation with the representative of this Brotherhood to determine the number of man-hours worked by or paid to the B&B forces, in aiding to determine the amount of compensation due Claimants. (Not to be less than two weeks pay per man.) Carrier file: 420-69-A."

OPINION OF BOARD: As Third Party in interest, the Brotherhood of Maintenance of Way Employes were advised of the pendency of this dispute and filed a Submission with the Division.

On or about August 24, 1984, Carrier assigned B&B employes to perform work consisting of the construction and installation of train control-type cantilever bridges, which hold train control signals. The Organization thereafter filed a Claim on Claimant's behalf, charging that Carrier violated the controlling Agreement by assigning such work to B&B employes instead of employes covered by the Agreement.

This Board has reviewed the evidence in the record, and we find that the work at issue is not specifically referred to in the Scope Rule and, therefore, in order for the Organization to prevail, there must be a showing

that the work had been performed exclusively by the Organization members in the past. The record in this case makes it clear that the work has not been performed exclusively by Signalmen and that Maintenance of Way employes have done the work on numerous occasions in the past. Hence, the Organization has not met its burden and the Claim must be denied.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1987.