

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (Conrail):

Claim on behalf of Signalmen J. Simcsak, R. Glaser, T. Carman, T. Murdock and C. Sumoski for eight hours pay each at their respective pro-rata rates of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope Rule, when it used B&B Welders to weld a stainless steel bead on the head of the rail between MP 24.4 and MP 41.0, on 24 crossings on the Bethlehem Secondary. Carrier file SD-2418."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This dispute involves a matter possibly affecting a Third Party at Interest, namely the Brotherhood of Maintenance of Way Employees. That Organization was provided the opportunity to submit its views and did so for the Board's consideration.

At issue here is the welding of stainless steel beads on rails at 24 railroad-highway crossings on the Bethlehem Secondary, beginning May 21, 1987. This work was performed by Brotherhood of Maintenance of Way Employees. The Organization herein asserts that the work should be performed by Signalmen.

The Brotherhood of Railroad Signalmen and the Brotherhood of Maintenance of Way Employees, in their Submissions, make reference to provisions of their respective Scope Rules. The principal defense of the Carrier on the property, however, is that there were no Brotherhood of Railroad Signalmen employees qualified to perform the work of stainless-steel welding. The Carrier does agree that Brotherhood of Railroad Signalmen employees may be called upon to do other types of welding.

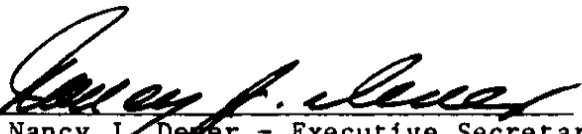
The Board has no basis to dispute the Carrier's judgment on this point. More significantly, the Organization has not provided convincing evidence contrary to such judgment. On this basis, the Claim must fall, quite apart from varying assertions as to the Scope Rules involved.

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 27th day of April 1990.