

CORRECTED

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29679
Docket No. SG-30037
93-3-91-3-449

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Terminal Railroad Association of St. Louis
(TRRSTL)

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Terminal Railroad Association of St. Louis:

Claim on behalf of D. H. Wilkins et al, for payment of eight (8) hours pay each, at their respective punitive rates of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, the Scope Rule, when it allowed or permitted Maintenance of Way Employees, to install signal cables on March 14th, 15th, 23rd, and April 18th, 19th and 20th, 1990, at Shreve Avenue, in St. Louis, or at 21st and Bond Avenue, in East St. Louis, Illinois, and at Madison Retarder Yard, in Madison, Illinois, respectively." Carrier's File No. 013-311-15. BRS Case No. 8456.TRRofSTL.

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

As Third Party in Interest, the BMW was advised of this dispute and did file a written submission with the Board.

This dispute arose when the Carrier assigned Maintenance of Way Employee R. Glenn to operate a backhoe to bury signal cable on several occasions during the months of March and April of 1990. The Organization asserts that the Carrier has violated the Scope Rule of the Agreement in that the work should have been performed by the members of its craft.

The Board has carefully reviewed the evidence properly before us and finds that the Organization on the property has not met its burden of proof. In so concluding, we note the Carrier's denial letter of July 9, 1990, which stated in pertinent part:

"The joint utilization of mechanized equipment, such as the backhoe, burro crane and speed swing, is employed by the Carrier to assist signalmen and other crafts in the performance of their work.

This joint utilization of Maintenance of Way equipment has also been used in the past, without Organization exception, for many signal-related projects...."

This material statement was never rebutted by the Organization on the property and thus stands as established fact.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Nancy J. Dever
Nancy J. Dever, Secretary to the Board

Dated at Chicago, Illinois, this 29th day of June 1993.