

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 30083  
Docket No. SG-30645  
94-3-92-3-429

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Union Pacific Railroad Co. (former  
(Missouri Pacific Railroad Company)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on Union Pacific Railroad (former MP):

Claim on behalf of Brothers R.L. Wates, et al, for three hundred ninety-six (396) hours each, at the straight time rate of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope Rule, when it contracted with M&M Contractors to remove line wires between Sweetwater and Ranger, Texas." Carrier File No. 910579. GC File No. 91-68-T-S. BRS Case No. 8648-UP/MP.

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.

This claim contends that the Agreement was violated when M&M Contracting Company removed pole line wires and pole line cross arms along Carrier's right-of-way between Sweetwater and Ranger Texas, between March 3, and June 24, 1991. The Carrier argues that it sold the cross arms and wire on an inoperative pole line system to M&M under the terms of an "As is - Where is" contract, dated

February 28, 1991, and it was that firm's obligation to remove the items from Carrier's property.

This Board has consistently held that the Scope Rule does not apply to work connected with removal from Carrier property of unneeded fixtures that it has sold to another enterprise under the terms of an "As is - Where is" contract. In this regard see Third Division Awards 12800, 19127, 23259, 28489, 28615. The claim is without merit.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Catherine Loughrin  
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 15th day of March 1994.