

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31347
Docket No. SG-30954
96-3-92-3-896

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

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

STATEMENT OF CLAIM:

"Claims on behalf of the General Committee of the Brotherhood of Railroad Signalmen (BRS) on the Terminal Railroad Association of St. Louis (TRRA):

CASE No. 1

Claim on behalf of D.C. Picou for payment of two hours and forty minutes at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it utilized an employee of an outside contractor to perform the covered work of repairing signal equipment (underground wires) on August 26, 1991, and denied the Claimant the opportunity to perform the work. Carrier's File No. 013.30. General Chairman's File No. 910904.04. BRS File Case No. 8948-TRRA.

* * *

CASE No. 2

Claim on behalf of D.J. Freppon for payment of two hours and forty minutes at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it utilized an employee of an outside contractor to perform the covered work of repairing signal equipment (underground wires) on August 27, 1991, and denied the Claimant the opportunity to perform the work. Carrier's File No. 013.30. General Chairman's File No. 910904.03. BRS File Case No. 8948-TRRA.

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CASE No. 3

Claim on behalf of C.E. Satterfield for payment of two hours and forty minutes at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it utilized an employee of an outside contractor to perform the covered work of repairing signal equipment (underground wires) on August 19, 1991, and denied the Claimant the opportunity to perform the work. Carrier's File No. 013.30. General Chairman's File No. 910904.06. BRS File Case No. 8911-TRRA."

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 employee 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 Brotherhood of Maintenance of Way Employees was advised of the pendency of this dispute and filed a Submission with the Board.

With the exception of the Claimants named and the dates on which the work at issue was performed, the facts in this case are nearly identical to those presented in Third Division Award 29679, involving the same parties. The contractor alluded to in these claims operated a backhoe to prepare ground to receive signal wires. As was noted in the above-cited award, the Organization bears the burden of persuasion that the work at issue is reserved to covered employees. It has not born that burden. Accordingly, this Board sees no reason to overturn the finding in Award 29679.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 25th day of January 1996.