

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35364
Docket No. SG-35050
01-3-98-3-806**

The Third Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Atlanta and West Point
(Railroad Company)**

STATEMENT OF CLAIM:

"Claim on behalf of H.A. Carroll W.H. Bray, R.C. Shumpert, J.S. Garrett, and T.E. Lally for payment of 30 hours each at time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, when it used a contractor to dismantle a pole line in Newnan, Georgia, on July 12, 13 and 14, 1997, and deprived the Claimants of the opportunity to perform that work. Carrier's File No. 15(97-263). General Chairman's File No. FL-9714S. BRS File Case No. 10713-AWP."

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 were given due notice of hearing thereon.

The facts that gave rise to this claim are not in dispute. On July 12, 13 and 14, 1997, the Carrier used an outside contractor, Emery Tree Service, to remove poles and line wires on the former Atlanta and West Point Railroad (AWP) property near Newnan, Georgia. This particular pole line had been discontinued by the Carrier in 1991 and had not been

used since then. Emery Tree Service cut down the poles, removed the lines and transported the poles and wires off the property.

On September 4, 1997, the Organization filed a claim on behalf of four AWP Signal Gang employees whom the Organization maintains should have been used to dismantle the pole line rather than use an outside contractor to perform this work. The Organization contends that the dismantling of signal equipment was reserved to these employees by the parties' Scope Rule and it is immaterial that the signal pole line that was dismantled was being scrapped.

The pole line that was removed from the Carrier's property by Emery Tree Service in July 1997 had been abandoned over five years previously. The wires could not be used. In the Board's opinion, this was not "signal equipment" that was removed from the property, but rather scrap poles and wires. Under a long line of authority on the Third Division of the Board, material that was abandoned and was no longer part of a railroad's operation is not encompassed by railroad employees' Scope Rules. (See, for instance, Third Division Awards 32514, 32346, 32325, 31438 and 30084.)

In accordance with this persuasive line of authority, the Board is compelled to conclude that the removal of an abandoned pole line by an outside contractor on July 12, 13 and 14, 1997, was not encompassed by the Claimants' Scope Rule. Therefore, they had no contractual right to this work and the claim is denied as a result.

AWARD

Claim denied.

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 20th day of March, 2001.