

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37611
Docket No. SG-37682
05-3-02-3-770

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific (UP).

Claim on behalf of M. R. Powell, W. F. Lester, T. C. Miller and T. K. Dunivin, for 4.5 hours at their respective time and one-half rates of pay, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule and Rule 80, when it allowed employees not covered by the Signalmen's Agreement to transport and install a signal service pole at Alford, Oregon, M.P. 667.0, on September 25, 2001, and deprived the Claimants of the opportunity to perform this work. Carrier's File No. 1293205. General Chairman's File No. W-SC-147. BRS File Case No. 12279-UP.”

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.

As Third Party in Interest, the Brotherhood of Maintenance of Way Employees was advised of the pendency of this dispute and chose to file a Submission with the Board.

At the time the dispute arose, the Claimants were members of Signal Gang No. 2046.

On September 25, 2001 the Carrier's track employees were working at Alford, Oregon, when they accidentally knocked down an electrical pole, which they proceeded to replace.

On November 22, 2001 the Organization filed a claim asserting a violation of the Scope Rule.

The Carrier maintained that the pole was an electrical pole, not a signal pole. The Organization did not refute the Carrier's position. Ergo, the work is not covered by the Scope Rule.

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 22nd day of September 2005.