

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 38100
Docket No. SG-37901
07-3-03-3-307**

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
(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 S. C. Anderson, J. W. Hayes, J. K. Chandler, B. Goodrum and J. C. Hernandez, for 3 hours and 15 minutes each at their respective rates of pay, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it allowed a contractor to install a power drop at Palmetto Street in Plain Dealing, LA, at MP 422.2 on May 1, 2002, and deprived the Claimants of the opportunity to perform this work. Carrier’s File No. 1321790. General Chairman’s File No. S-SR-282. BRS File Case No. 12638-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.

This dispute centers on provisions of the Scope Rule which reads, in pertinent part, as follows:

“This agreement governs the rate of pay, hours of service and working conditions of employees in the Signal Department who construct, install, test, inspect, maintain or repair the following:

- 1. . . . (e) highway crossing warning systems and devices. . . .**
- 2. High tension or other lines of the Signal Department, overhead or underground, poles and fixtures, conduits, transformers, arrestors and distributing blocks, track bonding, wires or cables, pertaining to railroad signaling, interlocking, and other systems and devices listed in (1) above.”**

The incident precipitating the claim at issue arose on May 1, 2002, when the Carrier employed Hughes Electric Company to perform work in proximity to a highway crossing warning system location at Palmetto Street in Plain Dealing, Louisiana, at Mile Post 422.2.

The Organization filed the instant claim on May 7, 2002. It alleged that the Carrier had allowed the contractor's forces to “dig a hole, set a pole, and wire in a power drop,” and accordingly had violated the Scope Rule. The Carrier denied the claim by letter of July 1, 2002. In its denial, the Carrier contended that, in essence, the contractor had installed a meter service, not a power drop. The denial was appealed on August 12, 2002, and was subsequently progressed according to the provisions of the Agreement.

The Board reviewed the sparse evidence presented in this case. That review reveals no basis upon which to judge whether the work at issue was covered by the Organization's Scope Rule. Accordingly, the Board has no choice but to dismiss this

case for failure of proof. In doing so, the Board makes no comment whatsoever regarding the nature of the work at issue. Thus, this decision is limited to the particular case at hand and is not intended as precedent for any similar cases that may arise involving the work alleged here.

AWARD

Claim dismissed.

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 21st day of February 2007.