

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42566
Docket No. SG-43236
17-3-NRAB-00003-150501**

The Third Division consisted of the regular members and in addition Referee Roger K. MacDougall 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 Railroad:

Claim on behalf of R.C. Fegler, N.C. Hisel, T.A. Lubash, B.S. Menke, T.E. Miller and E.R. Prososki, for each to receive an equal share of 800 hours at the Signalman’s time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule and Rule 65, when, during the month of August 2014, Carrier permitted a contractor to perform work that is covered by the Scope of the parties’ Agreement and thereby caused the Claimants lost work opportunities. Carrier's File No. 1613996. General Chairman's File No. N 1 1232. BRS File Case No. 15222-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 case involves the Scope Rule in the Collective Bargaining Agreement. The Organization claims that the Carrier violated the Scope Rule when it brought in contractors to dig a trench in which it put signals cables for North Platte Yard. The Carrier says this was a mixed use trench, which also included fiber optic cable for the Communications department, and thus the work was not exclusive to the Organization. They further say that this work is analogous to that described in multiple “boring” awards which, it says, confirmed the right of the Carrier to have this work done by contractors, amongst others, instead of exclusively by the Organization.

This Board finds that it need not deal with the boring awards. This project, involving “trunking” clearly establishes that the trunk was intended to house both signals cables and communications cables. The Organization says that the communications component was de minimus. This Board might agree that the fiber optic cables were fewer in number , but to call their function de minimus is to fail to recognize the technology involved. Fiber optics, by their very nature, provide the capability to carry huge amounts of data – what once required huge cables. Fiber optics cables are certainly powerful and capable of transmitting much more data than previous technologies. Thus, it is not correct, in the view of this Board, to describe their use and impact as de minimus.

As a result, the Board finds that the trunking, in this location, is truly multi-purpose. As a result, the Organization has failed to meet its burden of proof.

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 6th day of March 2017.