

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43152  
Docket No. SG-43413  
18-3-NRAB-00003-160052**

**The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.**

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(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 B.S. Menke, T.E. Miller, J.D. Naranjo, E.R. Prososki and D.R. Williams, for each to receive an equal share of 300 hours at the Signalman’s time and one-half rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule and Rule 65, when, during the month of October 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. 1617725. General Chairman’s File No. N 11249. BRS File Case No. 15268-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.**

The Organization filed the instant claim on the Claimants' behalf, alleging that the Carrier violated the parties' Agreement when it utilized an outside contractor during October 2014 to perform the work of installing a signal conduit in the form of cable trunking, thereby denying the Claimants these work opportunities. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the work at issue is Scope-covered work in that the cable trunking was installed to hold signal cable exclusively, because there is no support for the Carrier's assertion that the trunking was to be used for telecom cable as well as signal cable, because there is no support for the Carrier's position, and because the requested remedy is appropriate.

The Carrier contends that the instant claim should be denied in its entirety because the trunking system was install for both signal and telecom systems, because the work at issue therefore was not solely reserved to the Organization's members, because the Organization has failed to show an exclusive and system-wide practice of performing such work to the exclusion of all others, because the Organization has failed to meet its burden of proof, and because the requested remedy is excessive and would create a windfall for the Claimants.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the record in this case, and we find that the Organization has failed to meet its burden of proof that the Carrier violated the parties' Agreement when it allowed a subcontractor to perform work for signal cables as well as fiberoptic telecommunication lines. Therefore, this claim must be denied.

There is nothing in the parties' Agreement that prohibits the use of a subcontractor to perform the work involved in this case, which was a mixed-use project involving developing a trunking channel for signal cable, as well as fiberoptic communication lines. There have already been numerous awards on this property which made it clear that the Carrier is not prohibited from hiring a subcontractor to perform a trunking project which is not solely designed for signal

use and which will house different types of cable lines used by different departments. See Third Division Awards 39468, 40421, 41620, 41624, 41627, and 41630. In addition, this is the same work and same location that has already been ruled on by the Board in Cases 42566 and 42568.

It is fundamental that the Organization bears the burden of proof in cases of this kind. In this case, the Organization has failed to meet that burden and, therefore, this claim must be denied.

**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 30th day of May 2018.