

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43174
Docket No. SG-43829
18-3-NRAB-00003-160638**

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 C.L. Driver, A.J. Hasley, W. Perry, R.W. Walker, W.W. Wallace and R.J. White, for four hours each at their respective time and one half rates of pay, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when on June 24 and 25, 2015, it permitted a contractor, Gains Construction, to install cable between signal cases and power feeds at MP 483.87 and MP 485.83 on the McGehee Subdivision. Carrier, in assigning an outside contractor to perform this work, violated the parties’ Agreement and caused the Claimants a loss of work opportunity. Carrier’s File No. 1631218. General Chairman’s File No. S-SR-1489. BRS File Case No. 15410-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 on June 24-25, 2015, to perform the work of plowing underground power cables between signal cases and power feeds, thereby causing the Claimants to lose this work opportunity. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the claimed work falls under the Agreement's Scope Rule, because there is no evidence that Telecom equipment was installed at the signal locations in question, and because there is no support for the Carrier's position that the Organization is required to show exclusive performance of the work.

The Carrier contends that the instant claim should be denied in its entirety because the cable was placed to benefit both Signal and Telecommunications Departments, because the Carrier has a historical practice on the property of utilizing contract forces to perform this work, because the Organization failed to show that it had an exclusive practice of performing the work to the exclusion of all others, because the Organization has failed to meet its burden of proof, and because the Claimants were fully employed and suffered no loss.

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 met its burden of proof that the Carrier violated the Signalmen's Agreement when it assigned an outside contractor to install cable between signal cases and power feeds on June 24 and 25, 2015. Therefore, this claim must be sustained.

Although the Carrier argues that this is another one of the "boring" cases, it is clear that this is a plowing case and differs from many of the other cases that have been heard by the Board. The Carrier contends that at some point in the future, it may have some telecom use here, but, at the present time, this work was signalmen work and should have been reserved to the signalmen employees. This was not a mixed-use or joint-use type of case as many others that have been ruled on by The Board in the past.

The work that was performed here is clearly within the Scope Rule of this Organization. Consequently, the Board has no choice other than to sustain the claim.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 30th day of May 2018.