

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43177
Docket No. SG-43873
18-3-NRAB-00003-160703**

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 W.S. Hoehns, W.D. Holloway, J.E. Kamm, J.B. Parker and J.G. Weltsch, for one hundred eight (108) hours each at their respective time and one-half rates of pay, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule and Rule 65, when from May 19-26, 2015, and from June 2-11, 2015, Carrier permitted contractors to install cable troughing at Davidson Yard in Ft. Worth, Texas, thereby causing the Claimants a loss of work opportunity. Carrier’s File No. 1631219. General Chairman’s File No. S-SR, 65-1490. BRS File Case No. 15453-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 to perform the Scope-covered work of installing cable troughing used to house and protect signal cable during the periods from May 19-26 and June 2-11, 2015, thereby denying the Claimants this work opportunity. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the work at issue is covered under the BRS Scope Rule, and because there is no support for the Carrier's position.

The Carrier contends that the instant claim should be denied in its entirety because there is no basis in the cited rules for the Organization's claim or remedy, because the Organization has failed to meet its heightened burden of proof in this jurisdictional case, because the work at issue related to both signal cable and telecommunication fiber optic lines, because the Organization has not shown a system-wide practice of performing such work to the exclusion of all others, and because the claim is excessive and creates 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 Agreement when it had an outside contractor install cable troughing at the Davidson Yard. Therefore, this claim must be denied.

A thorough review of this record makes it clear that the troughing project was not only for signal cable but was also being done to provide telecommunications equipment for the Telecom Department. This was a joint project involving both signal and telecommunications work.

An analysis of the previous cases makes it clear that if it is a joint project, the members of the Signal Organization do not have the exclusive right to perform the

work involved with the boring into the ground and the troughing. The trunking project was not performed for the exclusive purpose of the Signal Department. Consequently, the rules pointed out by the Organization simply do not apply to this particular project.

Since the Organization bears the burden of proof in cases of this kind, and it has failed to meet that burden, the Board has no choice other than to deny the claim.

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.