

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 45364
Docket No. SG-47737
25-3-NRAB-00003-230121**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company**

STATEMENT OF CLAIM:

“Claim on behalf of I. Andrade, J. Chan, B. Childs, J. Christopher, M. Cleveland, D. Dormann, J. Flores, C. Galvez, R. Garcia, A. Hernandez, J. Holstein, R. Middleton, J. Parks, J. Perez, D. Preciado, F. Quirarte, M. Salazar, C. Stout, ,and T. Yon, for 5.3 hours at their respective straight-time rate of pay; account Carrier violated the current Agreement, particularly the Scope Rule, when, on February 7 and 8, 2022, it utilized an outside contractor to remove a signal bridge and foundation at M.P. 532.4, on the Alhambra Subdivision. Carrier’s File No. 1772754, General Chairman’s File No. W-SR-0146, BRS File Case No. 5807, NMB Code No. 312 - Contract Rules: Scope.”

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.

According to the claim, the dispute in this case is over the Carrier’s use of an outside contractor on February 7 and 8, 2022, to remove a signal bridge and foundation

at M.P. 532.4, on the Alhambra Subdivision. While the parties argued much over whether the Carrier's signal employees could have performed the work and whether the contractor used specialized equipment not possessed by the Carrier (which the Organization disputed), there is one fundamental fact that resolves this case. That fact is that the work was performed on a contract between the Carrier and the contractor for sale and removal of the bridge and foundation on an "as is, where is" basis. Carrier Exhibit B5 at 4 (where the Carrier's Supply Manager stated "... the Signal Bridge Removal on 2/7/2022 was related to the contract: MA-000985-2021 ... Per the special conditions of the bid documents, this bridge removal was priced as an as is/where is. The contractor is responsible for the removal/disposal of the structure and retains the value of the scrap material" and the relevant portion of that contract was quoted). In denying the claim, the Carrier pointed out the "as is, where is" nature of the subcontract in its handling on the property. See the Carrier's letter dated August 15, 2022 (Carrier Exhibit B5 at 2).

The Carrier therefore argues that because the work was performed by the contractor on an "as is, where is" basis, the claim must be denied. The Carrier is correct. See Third Division Award 32857:

"Based on what is before us, we are satisfied that the Carrier entered into an arrangement whereby TIFP removed the ties on an "as is, where is" basis. As such, no violation of the Agreement has been shown. See Third Division Award 30637:

The ties were sold on an "as is, where is" basis. Accordingly, the removal by the outside concern did not violate the Agreement since the ties were no longer owned by the Carrier.

See also, Third Division Awards 30080, 30224, 30231, 30901, 31716 and awards cited therein."

On that basis, the 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 19th day of December 2024.