

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 45649
Docket No. SG-48677
26-3-NRAB-00003-240291

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

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

STATEMENT OF CLAIM:

“Claim on behalf of D. Guilliams, for 30 hours at his respective over-time rate of pay; account Carrier violated the current Signalmen’s Agreement, particularly the Scope rule, when on July 1, 2023, it was discovered Carrier permitted contractors from Idaho and Sedalia Transportation Company to pre-wire and pre-build gate mechs for a highway crossing warning system at M.P. 486.86 on the Pine Bluff Subdivision, causing a loss of work opportunity to the Claimant.”

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 dispute arose when Signalmen arrived at their work site and discovered that the Carrier had ordered a gate for that site with pre-built gate mechanisms, lights, and warning signals already installed. The Organization asserts that such work on gates is reserved exclusively to Signalmen under the Scope Agreement of the Parties’ Collective Bargaining Agreement (CBA). In this case the work had been performed by the

Carrier's contractor, the Idaho and Sedalia Transportation Company. The Organization filed a claim on Mr. Guilliams' behalf on July 23, 2023. That claim was denied by the Carrier, and the matter was progressed in accordance with the Parties' Agreement, after which it remained unresolved. It is properly before the Board for adjudication.

At the outset, the Carrier argues that the above-referenced claim was untimely filed and that therefore this claim should be dismissed as "void ab initio". It points out that the actual work performed on the gates at issue was done many months prior to the "discovery" of the gate by the Organization, and significantly before the filing of the July 23, 2023 claim. However, boards of arbitration have consistently held that the time limits within which claims may be filed (or discipline may be assessed) begin once the party filing the claim (or assessing the discipline) "knew or should have known" of the incident at issue. For example, if a Carrier discovered a large embezzlement of funds by employees six months after the fact, one could hardly argue that the resulting discipline was not warranted because of the delay in discovery. Thus, I find the instant claim is timely and I will proceed to the merits of the claim.

The Organization maintains that the work performed by Idaho and Sedalia Transportation employees – mounting the gate mechanisms, bells and gate guard, as well as running wiring on the gate for the light flashers – is all work reserved by the Parties' Scope Agreement and cannot properly be performed by outside employees when Signal employees were available to do the work, albeit as overtime. It protests that by its actions the Carrier deprived the employee named in the above claim of work to which he was entitled under the Collective Bargaining Agreement. It notes that the Claimant was available and able to do the work at issue. Accordingly, it asks that the instant claim be sustained in full and Claimant be made whole for lost earnings.

For its part, the Carrier contends that none of the work at issue was performed on Carrier property by the contractor prior to delivery of the gates at issue. Moreover, the Carrier asserts, this is not a matter of first impression, since the Carrier has a long history of purchasing assembled, finished products that are later installed by Carrier forces. In support of its position, the Carrier references Third Division Award 36765 (Benn) and Third Division Award 36320 (Mittenthal), among others.

In assessing this case, certainly not one of first impression, I note Third Division Award 209262 in which referee Scheinman found:

This is not the situation where the unassembled equipment was on the [Carrier's] property and then sent out for assembling. If that was the case, the rights of the employees under the Scope Rule would attach. Here these rights have not yet attached. Here these rights have not yet attached. In short, the purchasing of a finished product, in the circumstances presented here, cannot be viewed as the contracting out or the farming out of bargaining work.

[See also, PLB 4746, Award No. 109 (Simon)].

The facts in this present case are essentially identical to the facts presented in both the Benn and Scheinman awards. The Claimant suffered no loss of contractually reserved on-property Signal work, and the Carrier cannot be found to have violated the Scope Rule by having a finished product delivered to its property to be installed, properly, by covered Signal employees. Accordingly, the claim is denied in its entirety.

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 20th day of March 2026.