

**Award No. 4157
Docket No. 4031
2-AT&SF-EW-'63**

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. — C. I. O. (Electrical Workers)**

**THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY
(Coast Lines)**

DISPUTE: CLAIM OF EMPLOYES:

1. The Carrier erred when they failed to assign the installation and maintenance of "Code Phones" a Communications device to the Electrical Workers.

2. That accordingly the Atchison, Topeka and Santa Fe Railway System be ordered:

(a) That Communications Linemen, Groundmen and Apprentice Linemen: W. S. Searcy, L. F. Thieme, E. D. Tollison, C. L. Sherrin, B. G. Childres, V. R. Kinion, O. L. Duncan, R. L. Ridinger, J. R. Hicks, C. C. Hannah, W. D. Thrush, D. R. Smithy, G. W. Childres, B. G. Moser, George Barton, R. G. Lybeck, A. Willingham, T. D. Kinion and James L. Mercer, be equally compensated at their regular time and one-half rate of pay for all time needed to install Communications Circuits recognized as "Code Phone" and Communications Carrier Circuits.

(b) That Division Linemen G. Marlette, W. W. Homewood, F. Vitallo, R. Ferrell, D. V. Crockett, J. B. Homewood, D. M. Christman, J. L. Mitchell, W. C. Christman, W. W. Michaels, T. M. Maggard, H. L. Drake, C. E. Cartwright and P. W. Stewart be compensated at their regular time and one-half rate for all time needed on their respective districts to maintain and repair or exchange these "Code Phones," these carrier circuits and appurtenances.

and firmly established principle of this and other Divisions of the National Railroad Adjustment Board that the proper compensation for work not performed is at the pro rata rate.

* * * * *

In conclusion, the carrier states that the employes' claim in the instant dispute should be either dismissed or denied for the reasons expressed herein.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The Carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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 Employes agree that Centralized Traffic Control, now called Traffic Control System, was first installed by the Signalmen on part of Carrier's lines in 1931, was gradually extended, and existed in 1945 when the first Agreement was made between Carrier and the Organization; that as originally installed in 1931 it included the necessary circuits and the Code phones. In their rebuttal they say:

"The Electrical Workers * * * know * * * that Centralized Traffic Control (CTC) and now designated Traffic Control System (TCS), has been installed, repaired, maintained and trouble-cleared by Signalmen. The Electrical Workers do not claim that work, we fully realize that it is electrical in nature but we have never had a contract for that type of Electrical work but, they do have a contract for Communications Electrical work, which is the subject of this instant dispute."

They also say:

"The employes agree that what the Carrier has to say about the original installation of these Code or CTC telephones is correct. We would never question that these phones were installed for the first time in 1931. They were then installed for the exclusive use of signalmen in the performance of their duties as Signalmen. These phones were locked up and the Signalmen were the ones authorized to have keys or have access to their use * * *. However that was prior to the existence of the Electrical Workers on the Santa Fe, and what was done then the Electrical Workers had no control over. However, August 1, 1945, this Carrier agreed with System Federation No. 97 of which the Electrical Workers are a part, that Communications work was Electrical Workers' work. This carrier agreed to that; now when they want to expand the use of a Communications device, they want to change the application of its handling."

In other words, what is now claimed to have changed the code telephones' admitted signal system status of over 30 years' standing to a communications

status, and therefore to have transferred their jurisdiction for installation and maintenance from Signalmen to Electrical Workers, is that the phones are no longer kept locked and are now used for ordinary communications purposes by other than Signalmen.

The record does not show what proportion of the use of code phones and circuits for communication purposes is claimed to have occurred, or what proportion would suffice to convert these integral parts of the CTC system to communications rather than signal functions; apparently, therefore, the view is that any communications use at all would transfer the work from Signalmen to Electrical Workers.

The claimed change of use complained of is discussed in the Employees' Submission as follows:

"The Carrier first installed these phones for the limited use of the Signalmen in the performance of their signal work. Then the phones were placed for the use of other employees by installing them in a compartment protected by a standard Carrier Switch lock. Later these phones' use were expanded to include Switchmen, Brakemen, Conductors and others, including Trackmen, their Supervisors and even our own people, such as Divisions Linemen, Linemen and others. This is all supported and indicated by the admitted users of these phones in Exhibit 'A' to this submission."

In its Rebuttal the Carrier replies:

"On page 5 of the Employees' submission statement is made about code phones being first installed for limited use by signalmen and gradually extended to other personnel. This is not true; code phones between Williams and Crookton are being used for the same primary purpose as they are and always have been used on TCS installations, i.e., for train and enginemen to communicate with the dispatcher to obtain operating instructions not otherwise provided by the signal system, as and when the need arises.

"The code line, to which the telephones are attached, is a most vital function in the code controlled Signal System. Any interruption to the code line circuit, which would be caused by improper connections or faulty equipment, could put all or part of the Signal System out of operation in territory where trains are operated by signal indication."

There seems to be no question that the CTC system has not changed essentially since its installation, but as above noted, the parties disagree on the question whether since the installation the use of code phones has changed materially. The Employees cite their Exhibit "A" as support for their contention. But that exhibit does not even mention any such change. It consists of (1) statements by some 31 employees that "we have used 'Code Phones,'" and that "these phones are located in the several System Signal cases, to obtain from the Dispatcher, Train Movements, Train Information and Track Motor car information and also to contact the Train Dispatcher for other information;" and (2) a statement by the Local Chairman at LaJunta that "we here on the Colorado Division * * * are instructed to use the Control Station for

TCS purposes by contacting the Train Dispatcher as per movement of our trains when signals are in red position."

Exhibit "A" contains no evidence whatever of the alleged change in the use of the code phones and circuits which is claimed to have converted them from signal system to communication system and to have transferred their installation and maintenance from Signalmen to Electrical Workers. Not only that, but they confirm the fact that these code phones and circuits are and always have been integral parts and adjuncts of the signal system to control the movement of trains.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February, 1963.