

**Award No. 2810
Docket No. 2657
2-B&O-SMW-'58**

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Livingston Smith when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Sheet Metal Workers)**

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement, other than Sheet Metal Workers were improperly assigned to install air pipe lines for the new interlocking tower at Butler, Pennsylvania, commencing on February 13, 1956.

2. That accordingly the Carrier be ordered to additionally compensate the following employees of the Sheet Metal Workers' Craft 8 hours each at the applicable straight time rate of pay for February 13, 1956, and each subsequent date thereafter that the aforesaid violation occurred:

Sheet Metal Worker Joseph E. Spehalski

Sheet Metal Worker Edward Gotwald

and

Sheet Metal Worker Helper Edward Anderson.

EMPLOYEES' STATEMENT OF FACTS: The Baltimore and Ohio Railroad Company, hereinafter referred to as the carrier, constructed on its property at Butler, Pennsylvania, a new interlocking tower to replace the telegraph office. A complete air-electric interlocking plant consisting of compressor, air reservoir tank and five electro-pneumatic switch machines together with all necessary electric controls and piping was installed. A 2" pipe line approximately 515 feet long was installed from the air reservoir tank through the yard at Butler Junction, Pennsylvania, as a header supply air line to serve the five switch machines and supply air for other purposes in the yard. Smaller pipe lines were installed from the header line to within 18" to 24" of the switches. Signalmen were assigned by the carrier on February 13, 1956, and did perform the work of installing the air pipe lines.

sary parties and if this is not done, or if done and the Signalmen make no appearance, the Division can, in any event, properly proceed to award relief between the parties before it.

A literal application of the language of Rule 57, Classification of Machinists' Work, and Rule 125, Classification of Electricians' Work, would require a 'yes' answer to the question herein posed. However, maintaining and repairing the signal system of carrier does not belong to Shop Crafts. Such work, when done in connection therewith, is properly performed by Signalmen. In view of this situation the following language from Order of Railway Conductors of America vs. Pitney, 326 U.S. 561, has particular application: "The record shows, however, that interpretation of these contracts involves more than the mere construction of a "document" in terms of the ordinary meaning of words and their position . . . For O. R. C.'s agreement with the railroad must be read in the light of others between the Railroad and BRT."

Organization contends no part of the retarder system can be considered to be part of the Signal System whereas carrier says it has been generally recognized as signal work.

While not binding on us in any way we take notice of the fact that the Third Division has held the installing and maintaining of car retarder systems on this carrier comes within the scope rule of the Signalmen's agreement. See its Awards 4712, 5218 and 6203. This is particularly significant in view of the fact that the scope rules of the two agreements cannot possibly be said to overlap and both contain the work. It is just a question of fact as to whether or not it is signal work for if it is then it is not included under the scope of the Shop Crafts agreement. The record discloses that on almost all other carriers, where car retarder systems have been installed, the work of maintaining and repairing them has been considered Signalmen's work. In this respect see Third Division Awards 1486 and 3365. From the record before us we have come to the conclusion that it is not work covered by the Shop Crafts' Agreement."

SUMMARY

The conclusion is inescapable at this point that there are uniform holdings before this Division and before the Third Division of the Adjustment Board assigning the kind and type of work here involved to the signal forces. This work does not belong to shop craft employees. This issue as to whether this work belongs to the signal forces has been before the Adjustment Board, time after time. These awards are applicable on the property of this carrier. Their validity and application to this property and to the rules agreements found on this property cannot now be subjected to substantial challenge.

The carrier submits that the work involved in the instant claim dealing with the installation of air pipe lines at the interlocking plant at Butler, Pa. belonged to the signal forces. The carrier submits that this claim in its entirety ought to be denied.

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.

The parties to said dispute were given due notice of hearing thereon.

This claim concerns the alleged improper assignment of work to employee not covered by the effective agreement. The work in question involved the installation of air pipe lines for use in the operation of a newly installed interlocking system in the yard at a point known as Butler Junction.

It is contended that the assignment of the work is in direct contravention of both the Scope of the effective agreement and Rules 29 and 114 of the effective agreement.

Prior Award 1835 of this Division and Award 6203 of the Third Division are cited as controlling here. It is noted that Award 1835 of this Division concerned itself with the claim that the general repair and maintenance of retarder systems belonged within the purview of the machinists' and electricians' agreement. Award 6203 of the Third Division concerned itself with the claim that repairs to an air pipe line used in connection with a retarder system came within the purview of the sheet metal workers' agreement. In each instance it was in effect determined that the work in question was not subject to performance by shop crafts.

Here, however, we are confronted with another question. The work with which we are here concerned involves the initial installation of an integral operational component of an interlocking system. An interlocking system has to do with the actual physical operation of trains. The carrier asserts that since the inception of interlocking systems the initial installation of such systems has never been vested, either in whole or in part, on an optional basis, or otherwise, in the sheet metal workers.

The record contains no evidence that would tend to refute such alleged practice on this carrier. Neither is it asserted, or evidence presented, that sheet metal workers perform this type of work in the industry generally.

The burden of proof is upon the party making the allegation. The organization has failed to meet this requirement. So, therefore, there exists no justification for a sustaining award.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 14th day of March, 1958.