

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: ( System Federation No. 2, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Electrical Workers)  
( Houston Belt and Terminal Railway Company

Dispute: Claim of Employees:

1. That the Houston Belt & Terminal Railway Company violated the current agreement when they assigned Signalman W. D. King to perform work within the scope of the Electrical Workers.
2. That accordingly, the Houston Belt & Terminal Railway Company be ordered to compensate Electrician R. Plagen in the amount of eight hours (8') at the straight time rate for Thursday, March 29, 1973.
3. In addition to the money amounts claimed herein, the Carrier shall pay claimant an additional amount of 6% per annum compounded annually on the anniversary date of the claim.

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 waived right of appearance at hearing thereon.

The Organization contends that the Carrier did not deal with the claim submitted by the Organization for work done on March 29, 1973, during the handling of correspondence or in conferences, but rather dealt with work performed by Carrier employes at Dallerup Yard between March 1, 1973 and March 8, 1973. The Organization contends therefore, that the Carrier has never denied the instant claim. We disagree. The correspondence of the parties unquestionably demonstrates that the claim was denied by the proper Carrier officer, the Officer in his letter of August 16, 1973, acknowledging receipt of the Organization's letter of claim of July 31, 1973 and then explaining that an IBEW electrician had performed the

required electrical work on March 1, 1973, and that the additional work was Signalmen's work handled by the Signal Department.

The Organization contends that "electrical work" was done at Dallerup on March 29, 1973, by Signal Maintainer N. D. King. The work in question, the Organization contends, based on Electrician Van Horn's written statement (Employee Exhibit "K") was: "...I was sent to Dallerup Yard to remove and relocate the service entrance from the building housing signal equipment ....". Carrier demonstrated by payroll records that Mr. Van Horn had performed electrical work at Dallerup on March 1, 1973. Carrier contends that the work done on March 29, 1973 by a Signalman was that of connecting the service into the signal case, Mr. Van Horn having previously relocated (on March 1, 1973) the meter loop and 110 volt line (see Employees Exhibit "M"). The Carrier contends that this work by the Signal Crew of connecting the service into the signal case has been historically performed by the Signal Department (see Employees Exhibit "M"). The Organization does not deny that such is the practice on this railroad. Local Chairman Wooldridge's statement (Employee Exhibit "O") adds no probative evidence concerning the nature of the work actually performed on March 29, 1973. Nor does the Employees' Rebuttal analysis of Carrier's Exhibit "E-1" add probative evidence to demonstrate that a signalman did "remove and relocate the service entrance from the building housing signal equipment", the Organization's view of the facts, as opposed to the Carrier's view of the facts that the Signal Crew merely connected the service into the signal case.

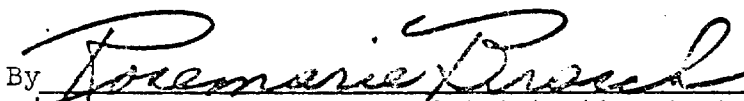
We are confronted with conflicting evidence concerning the basic facts put forward by the Organization in support of the instant claim. After a thorough examination of the entire record, we cannot resolve this conflict. The record just does not furnish any basis for resolving the conflict of fact and this Board has repeatedly adhered to the principle that it is not the province of this Board to weigh conflicting evidence. Consequently we must find that the petitioning Organization has failed to satisfy its burden of proof by a preponderance of substantial evidence. Claim dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 2nd day of May, 1975.