

The Second Division consisted of the regular members and in addition Referee Raymond E. McAlpin when award was rendered.

(International Brotherhood of Electrical Workers  
PARTIES TO DISPUTE: (  
(Seaboard System Railroad

STATEMENT OF CLAIM:

1. That the Seaboard System Railroad Company (SCL) violated the current working Agreement, particularly Rules 1(a) and 29(a), when Carrier required and permitted Signal Maintainers to perform Communications Maintainers' work on November 20, 1981.

2. That accordingly, the Seaboard System Railroad Company (SCL) compensate Communications Maintainer G. T. Langston three (3) hours at the overtime rate of pay.

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 employes 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.

As Third Party in Interest, the Brotherhood of Railroad Signalmen was advised of the pendency of this dispute and filed a Response with the Division.

The Organization claimed a violation of Rules 1A and 29.

"Rule 1A - Classification of Work Rule  
Communications Maintainer

Communications Maintainers' work shall include constructing, installing, repairing, maintaining, inspecting, testing and removing of company

owned; communication lines and their supports, wires and cables, telephone, telegraph, teletype, switchboards, communication plant equipment, and wireless voice communication equipment, together with all appurtenances, devices, apparatus and equipment necessary to said systems and devices, apparatus and equipment necessary to said systems and devices as named herein, and all other work generally recognized as communications maintainers' work....

No employees other than those classified herein will be required or permitted to perform any of the work covered by this agreement."

"Rule 29 - Assignment of work, reads in pertinent part:

- (A) None but communication maintainers or their assistants regularly employed as such shall do communications maintainers work as per Rule 1."

On September 24, 1981, Signal Maintainers employed by the Carrier cut down and removed company owned communication line supports. The Organization stated that rules are clear; no provision is cited that allows Signal Maintainers to perform the work. This is exclusive work to the Organization. The Organization noted the Signalmen did not claim the work with the exception of their letter to the Board of September 13, 1984. The Organization stated the Board is without authority to transfer Electricians' work to Signalmen's craft and, although there was no loss of wages, there was certainly a loss of earnings opportunity.

The Signalmen's original response was that they performed the work in response to Seaboard management instructions in order that they would not be charged with insubordination. However, as noted above, in a letter dated September 13, 1984 the Brotherhood of Railroad Signalmen referred to Third Division Awards 18559 and 18560 which indicated that the Signalmen had a right to signal work on pole lines and signal systems. Since the Signalmen were working on poles that were used to carry signal appurtenances, this work rightfully belongs to and is within the scope of the Signalmen's Agreement.

The Carrier noted the two poles had no communications equipment at the time they were removed and, therefore, no communications work is involved. The poles were serving only signal apparatus, the communications apparatus having been removed by the members of the Electrical Workers Organization. The Carrier stated that pole work is joint work and cited Second Division Awards 7601 and 7215 in support of their contention. The Carrier noted that proof of exclusivity is always on the Organization and, in any event, the claim is excessive.


It was claimed by the Carrier that the poles in question did not have any communications equipment on them when they were removed. This contention by the Carrier was not refuted by the Organization. The Board noted that Award 7215 states "...it is an established practice that various crafts have historically handled poles irrespective of the craft assigned to the installation thereof." Award 7601 stated "Prior awards of this Board have found that the work involved in this dispute does not belong exclusively to either the Electricians or the Signalmen and that, therefore, this work may be assigned to either." Both of these Awards were between the Carrier and the Claimant Organization. Many Awards before this and other Divisions have stated that the burden of proof involving systemwide exclusivity falls on the Organization, and the Organization has not met this burden in this case. The Board noted that the Rules cited by the Organization do not clearly state under whose jurisdiction the poles carrying both types of apparatus fall and, certainly under the circumstances where no communications equipment was contained on these poles, the Board will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of August 1988.