

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

LeRoy A. Rader, Referee

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: (1) That the Carrier violated and continues to violate the provisions of the Signalmen's Agreement when it farmed out, removed, or otherwise arranged or assigned generally recognized signal work to employes not covered and who hold no seniority or other rights under the provisions of the Signalmen's Agreement by employing laborers to perform signal work in handling material, painting signal cases, handling relays, dismantling signal equipment, and performing other work covered by the said agreement.

(2) That C. P. Barrier et. al. assigned to position at the location of the signal storehouse at Wildwood, Fla., be compensated at their respective rates of pay on the basis of time and one-half on a proportionate basis for all time worked by the laborers at Wildwood May 13, 1947, and so long as the violation continues.

(3) That Mr. Michael Bergman et. al. assigned to positions at the signal storehouse at Denmark, S. C., be compensated at their respective rates of pay on the basis of time and one-half on a proportionate basis for all time worked by the laborers at Denmark, S. C.

EMPLOYES' STATEMENT OF FACTS: The Carrier was and is engaged in a signal construction program in Florida and South Carolina, as well as other states. Signal storehouses were established at Wildwood, Fla., and Denmark, S. C., for the purpose of receiving, shipping, and working over signal equipment removed from service to be used at a different location, assembling and shipping out to different points material received from manufacturers, wiring instrument houses and relay cases, and other signal work necessary in the construction program.

The Carrier employed laborers at Wildwood and Denmark and assigned them to perform signal work, such as handling signal material, painting, dismantling and assembling signal material and apparatus, etc., at a lower rate of pay than is provided for in the agreement.

There is no classification or rate of pay for laborers in the Agreement between the Seaboard Air Line Railroad and the Brotherhood of Railroad Signalmen of America.

A protest against the diversion of this signal work was filed by the General Chairman with the Superintendent Communications and Signals of this Carrier and has been progressed in the proper and usual manner up to and including the highest officer of the Carrier designated by the management to whom appeals may be made, without securing a satisfactory settlement.

unless filed within 60 days of the date of occurrence giving rise to the grievance. Rule 42, paragraph (d) is here quoted for ready reference:

"An employe who considers himself otherwise unjustly treated shall have the same right of hearing and appeal as provided above for discipline cases, and in the handling of any grievance may have representatives of his choosing handle them for him. Grievances other than in connection with discipline arising out of the application of the rules and working conditions and rates of pay will be barred unless filed within sixty (60) days of the date of the occurrence giving rise to the grievance."

The Carrier has shown that the work complained of in this dispute is work that properly belongs to employes by another agreement and such work has never been performed by employes under the signalmen's agreement on this property. Further, that this work is excluded from the provisions of the signalmen's agreement, and, further, that the claims are barred by the statute of limitations rule in the controlling agreement.

Based on the showing made herein, the claims of the employes presented in this case should be denied in their entirety because of their complete and absolute lack of any merit whatsoever, and the Seaboard Air Line Railroad Company respectfully requests the Third Division to so order. All relevant and material facts and considerations in this case have been made or are well known to the employe representatives parties to this proceeding.

OPINION OF THE BOARD: Petitioners contend Carrier violated the Signalmen's Agreement when it permitted laborers, a class of employes not covered by the Agreement, to handle signal material, paint signal cases, handle relays, dismantle signal equipment and perform other work covered by the Agreement, citing the Scope Rule and classifications including all employes of the Signal Department. Also Award 3684. And cited on behalf of Petitioner Awards 5090 and 5973. Petitioners in support of this claim cite Rule 6 of the Agreement which reads as follows:

"A man assigned to assist other employes specified herein shall be classified as a signal helper. A signal helper when working alone, or two or more signal helpers working together, may perform such work as filling and cleaning lamps, cleaning and oiling interlocking plants, bonding track, renewing primary batteries, excavating, handling material, mixing concrete and painting, but shall not be permitted to do work recognized as distinctively maintainer's or signalman's work."

Stressing the handling of material and painting.

Respondent Carrier states that this claim is barred by reason of long delay in progressing the same for a period of over two years. Award 6229 based on Award 4941 cited on behalf of Carrier.

The work in question was performed by employes at Storehouses, and Reclamation Shops established in conjunction therewith at Wildwood, Florida and Denmark, S. C. At Storehouses shipments of material are received from manufacturers and these are subsequently reshipped to points where new construction is being executed. At the Reclamation Shops, materials are reclaimed from prior installations, and dismantling, cleaning and painting is done. Also measuring and cutting cable, loading and unloading of material on trucks. In some instances these employes accompany the trucks of material to points of construction on line of road where the material is to be used.

It is denied that such work comes within the Scope and Rule 6, and that these Storehouses and affiliated Reclamation Shops are Signal Department facilities. Also that these facilities are under the direct super-

vision of Materials Inspectors and are not as contended, under the supervision of Signal Construction Supervisors, and that in any event, the titled classification of supervision does not control the craft classification of employees working under such supervision, citing numerous incidents whereby this is true, and citing on behalf of Carrier, Awards 4992, 5225, 6076 and 6179, to the effect that it is the function of Management to determine supervisory requirements. Also that the mere handling of signal materials is not signal work. Citing Award 5046. That in Rule 6, re: handling of material is in its nature, if correctly defined, permissive and does not have mandatory application by reason of the use of the word "may". Citing Rule 30 of the Agreement and citing Award 6384 on behalf of the Carrier.

It is the opinion of this Division that the work performed by these colored laborers is unskilled work and was not intended by the parties to have such a meaning as herein contended by Petitioners.

Several other phases of this dispute are dealt with at some length in the record and in argument presented in support of, and in resistance to this claim, however, it is deemed that no useful purpose would be served in going into detail on these interrelated matters. Suffice to say the work in question is not considered to be within the contemplation of the parties under the rules of this Agreement as the same relates to the facts presented herein.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 11th day of March, 1954.