Award No. 7841
Docket No. SG-7824

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Erie Railroad Company that:

(a) The Carrier violated the Scope of the working agreement when it assigned the work of processing relay and wire identification tags to an outside concern.

(b) The Carrier be required to pay all employes who have been adversely affected for the amount of time that would be required to process the number of tags involved.

EMPLOYES' STATEMENT OF FACTS: For the past twenty or more years it has been the practice on this property to use black fibre marking tags for identification of wires, terminals, relays, etc. used in the installation of signal facilities. These tags were made of fibre and by the use of metal stencils the letters and figures on the tags were indented on the fibre. The indentations were then filled in with white ink, thus permitting the number or letter on the tag to be easily read. The work of stenciling the numbers or letters on these tags has always been performed by Signal Department employes covered by the Signalmen's Agreement.

More recently, however, a manufacturer has offered a printed tag with a plastic coating covering the letters and numbers. A list of the desired tags, together with information as to the inscription to be placed thereon, is furnished by the Carrier to the manufacturer, who in turn furnishes the tag complete and ready for installation.

The purchase of blank tags by the Carrier is not involved in this case. The dispute arises from the fact that the work of stencilling and lettering of such tags was assigned to an outside concern.

A facsimile of the tags involved in this dispute, together with a description, is shown as Brotherhood's Exhibit No. 1. The letters and numbers shown on the drawing of the tags are specimens only. Tags purchased from the manufacturer are lettered and numbered from lists prepared by the Carrier and conform to the nomenclature appearing on blueprints of signal facilities for the specific location where they are to be so used.

(Organization) looked to Award 4713 to support its views. In deciding the question, the Board held:

> "The Organization argues that this Award [4662] is distinguishable on the facts and applicable rules. We think it is clearly in point on principle and we adhere to what the Board there said [Award 4662].
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> "The Organization argues just as persistently that Award 4713 controls the result in the present case. We thing the same principle is involved in that case as in Award 4662. There appears to be a divergence of views in Awards 4662 and 4713. In the former it was held that the purchase and delivery of any manufactured piece of signal equipment or device cannot be a violation of the scope rule of the Signalmen's Agreement. In the latter case, the holding is directly to the contrary. The writer of this Opinion is in accord with Award 4662. It is the correct interpretation.
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> "The contentions advanced by the Organization amount to an encroachment upon the prerogatives of management in one of its most important functions. Management should not be limited in its managerial prerogatives by placing a strained construction upon a rule that was never mutually intended by the primary functions of management can be obtained only by negotiation, a function in which this Board can take no part.
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> "For the reasons stated, we are of the opinion that there was no violation of the Agreement and that a denial award is required."

Award 5044 is on all fours with this dispute. There, the same as here, there is nothing in the current agreement that restricts Carrier's right or authority to purchase manufactured equipment, devices or appliances. Furthermore, it is undisputed that after the tags were received from the manufacturer, they were applied by employes subject to the Signalmen's Agreement. Therefore, under the rules when viewed in the light of the sound reasoning contained in Award 5044, it is clear that employes of the signalmen's class performed all of the work in connection with identification tags to which they are entitled to perform under the agreement itself. To put it another way, the employes have not been deprived of any work coming within the scope of the agreement.

As shown heretofore, this general and unlimited claim is not, by decisions of this Board, a proper one because it is vague, indefinite and not susceptible of ascertainment. However, if the Board should take a different view, it should be remembered that Petitioner completely failed to present any consistent theory, supported by authoritative evidence or facts, which would enable it to prevail. Furthermore, there was no showing in the handling of the case on the property that any employe had been injured.

The Carrier submits that under the agreement itself and decisions of this Board, it has unrestricted right to purchase prepared circuit wire identifying tags, and that such action does not constitute a violation of the Agreement.

In the light of the foregoing, it is clear that the claim is wholly without merit and it should, therefore, be denied in its entirety.

(Exhibits not reproduced.)

OPINION OF BOARD: The Interstate Commerce Commission requires of Carrier that:

> "Each wire shall be tagged or otherwise marked so that it can be identified at each terminal."

The Carrier here involved had purchased black fiber tags on which a Signalman's Helper impressed the required identifying letters and numbers

with a graphotype machine. The impressions or indentations were then filled with white ink to make them more legible.

It is Carrier's contention that the markings on those tags, after a short time, either faded or became dirty and illegible.

Carrier found it could purchase from a manufacturer a plastic tag, with the proper letters and numbers imprinted thereon, which would be more lasting and an improvement over the old tag.

The new tag is manufactured under a patent process which, Carrier asserts, is not available to it.

Carrier asserts that since the new plastic tag has been used, and it is not denied by Organization, a list is made up, by an employe or employes covered by the Signalmen's Agreement, of the quantity and required markings of plastic tags required. Carrier sends this list to the manufacturer, and when the order is completed, the tags are shipped to Carrier and attached to the proper wires by employes covered by the Signalmen's Agreement.

Organization asserts the Scope Rule of the Agreement was thus "violated by Carrier when it unilaterally arranged to have signal circuit identification nomenclature inscribed on fibre (sic) tags by other than Carrier's Signal Department Employes."

Organization states that even if 'we were to assume for the sake of argument that the work involved here is not fully covered by either paragraphs (a) or (b) of the Scope Rule it cannot successfully be denied that work which has been performed for more than twenty years . . . is not work generally recognized as signal work," as specified in paragraph (c) of the Scope Rule.

Hence, Organization's claim that the Carrier 'be required to pay all employes who have been adversely affected for the amount of time that would be required to process the number of tags involved.

Nowhere in the record does Organization object to Carrier's purchase of blank indentification tags, but it does claim a violation of the Scope Rule by Carrier when it "arranged to have signal circuit identification nomenclature inscribed" on the new tags.

Organization also takes the position—not that there can be no change in methods as charged by Carrier—but that where the anticipated change is going to take away from the employes work which is covered by their agreement, and which they have been doing for years, the matter is one to be disposed of through negotiation.

At the outset, it is necessary to consider a point raised by Carrier at the beginning of its original ex parte submission in this particular docket—a point incidentally raised by Carrier in its presentations in companion dockets SG-7939, SG-8314 and SG-8315.

It is Carrier's contention that Organization's claim in this case, as in the other, is 'vague, indefinite, uncertain and not susceptible of ascertainment."

In argument presented to the Referee in behalf of Carrier, the Carrier member confined his remarks on the point to one paragraph:

> "Much has been written about the indefiinite and vague nature of these claims in the dockets. Suffice to say that the Carrier was justified in requesting more definite information when we observe that the Organization, as a matter of course, specifically identified the date, location and names of the Claimants in the claim that is before the Division as Docket SG-7939."

We will, therefore—especially in view of the fact that the argument presented by the parties' representatives was offered for all four dockets—proceed to consider the case on its merits.

It is agreed by the parties that the only point in dispute is Carrier's action in having the manufacturer of the plastic tags do "the work of stencilling and lettering of such tags."

In addition to the argument that Carrier's action violated the Scope Rule, it is argued on behalf of Organization that Carrier is not prevented, by its reasoning, from changing its methods of operation—"but that where the anticipated change is going to take away from the employes work which is covered by their agreement and which they have been doing for years, the matter is one to be disposed of through negotiation."

The Organization cites many awards it believes to be in support of its position, among them:

> Award 1501—"The decisive point is that this work was definitely within the scope of the Agreement between the Brotherhood of Railroad Signalmen of America and the Chicago, Burlington & Quincy Railroad Company. Giving effect to the scope rule and considering the nature of the work performed, it necessarily follows that the claim must be sustained."
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> Award 4513—"Where work is within the scope of a collective agreement and not within any exception contained therein or any exception recognized by the Board as inherently existent, that work belongs to the employes under the Agreement and may not be taken therefrom with impunity. See Awards 323, 757, 1647, 2465, 2812, 2988, 3251, 3684, 3687 and 3746 of this Division."
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> Award 3251—"Giving effect to the Scope Rule and the nature of the work performed, it necessarily follows that the work belonged to the Signalmen and that the Agreement was violated when the work was contracted to persons not covered by the Agreement."
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> Award 7349—"The work that is the subject matter of these Agreements and reserved by the scope rules is class of work and not so much the manner, method or detail for its performance. See Awards 864, 867, 1092, 3746, 4033, 4078, 4688, 5117 and 6448."

Carrier also cites many awards it believes to be in defense of its position, among them:

> Award 4662—"The purchase and delivery to the Carrier of any manufactured piece of signal eqquipment or device cannot be a violation of the scope rule. The rights of Employes under that rule are confined to work generally recognized as telegraph, telephone and signal work in connection with the installation and maintenance thereof, and such wiring as may be necessary on the property of Carrier in the installation of such devices. The employes performed all the work necessary in installation and wiring of the equipment involved here after its purchase from the manufacturer."
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> Award 5090—"If the questioned work is an integral part of a whole project which is the proper subject of outside contract, it has been held to be excepted from the agreement under the facts and circumstances existing in Awards 3206, 4753 and 5044."

Carrier's description of the manufacture of the tags in question, not disputed by Organization, is as follows:

> "The characters are printed by special rapid printing machinery on a plastic sheet which is then overlaid with a clear sheet of plastic

and laminated on a hydraulic press under controlled heat and pressure. The sheets are then cut to size and punched to complete the product."

It is clear that the manufacture of the tags is a series of completely integrated operations performed by special machinery, and the inscribing of "signal circuit identification nomentclature" is but one of these several *completely integrated operations.*

It is equally clear, then, if the purchase of identification tags per se "is the proper subject of outside contract"—and it is, admittedly so—and the inscribing of "signal circuit identification nomenclature" is "a integral part of a whole project." it must be held here, as in Award 5090, "to be excepted from the Agreement" under these facts and circumstances.

A denial award is, for the reasons herein cited, in order.

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 Employes involved in this dispute are respectively Carrier and Employes 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 has not been violated.

AWARD

Claims (a) and (b) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1957.