

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Marion Beatty, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Chicago, Rock Island and Pacific Railroad Company that:

(a) The Carrier violated the Signalmen's Agreement on July 28, 29, and 30, 1954, when it failed or refused to call Signal Maintainer T. F. Johnson, located at Wellington, Kansas, for work at 6:00 A. M., on each of the above listed dates, to perform the signal work in connection with the rail relaying job on his assigned maintenance territory.

(b) Signal Maintainer T. F. Johnson be paid two (2) hours at his respective punitive rate of pay as compensation for the service he was deprived of on each of the dates listed in part (a) of this claim, totaling six (6) hours at his respective punitive rate of pay.

EMPLOYEES' STATEMENT OF FACTS: On July 27, 1954, Track Inspector G. Solario advised the claimant that the maintenance gang and the Corbin section gang planned to start their working hours at 6:00 A. M. each morning commencing on July 28, 1954, and would continue for two or three days. Mr. Solario asked the claimant if he would also change his starting time to 6:00 A. M. and quit work early to eliminate and/or absorb the overtime. The claimant advised Mr. Solario he would change his working hours only if advised in accordance with the Signalmen's Agreement.

Notwithstanding the absence of the Signal Maintainer, the track forces proceeded with the rail relaying job on July 28, 1954, commencing at 6:00 A. M. each morning, on the centralized traffic control territory assigned to the claimant, and in so doing opened the track circuit governing the automatic signals in the C.T.C. territory and, presumably, by such action on the part of the track forces the automatic signals on the C.T.C. territory were inoperative for the length of time until the Signal Maintainer could arrive after commencing his work day, and during such time were not secured in their most restrictive indication.

The track circuit which serves as a medium to control the automatic signals in this C.T.C. territory uses the track rails as a component part of the conductor of the track circuit, and the rail joints are bonded to assure a con-

Mr. Johnson performed this work because in so doing, track forces could then proceed to perform their work more rapidly. This was work which they could perform and Mr. Johnson could not perform, namely relaying steel rail.

In connection with this claim, your Board's attention is directed to past practice on this property in connection with rail changing. Past practice has been for trackmen to roll out the rail without purposely or intentionally breaking the bonds.

In this case, there is no record of "track bonding" of rail as contemplated by the scope rule of the agreement.

In this case, as in all others which involve the question of penalty rate of pay for work not performed, we wish to direct your Board's attention to your consistent policy which has been enunciated in several of your Awards, namely, that the penalty for time worked differs from that not worked. Therefore, if the claim had merit, which we deny, the claimant would be entitled to pro rata pay.

Because there was no violation of the agreement in this case, the Carrier has declined this claim and respectfully requests your Board to support our declination.

It is hereby affirmed that all of the foregoing is, in substance, known to the Employees' representatives.

OPINION OF BOARD: On the three days in question track forces removed tracks and broke track bonds. No actual cutting or physical removal of bonds was performed by the track forces. They were there to remove the rails and not to do any work on signals or bonds. In removing the rails they simply broke the bonds.

The rails are part of the metallic circuit in the Central Traffic Control territory and when they were removed and the bonds broken the signal circuit was opened.

The scope rule in the case at hand includes "track bonding" and "all other work generally recognized as signal work". Admittedly it does not specifically include the breaking or removal of track bonds.

We are inclined to believe that the mere cutting, removal, dismantling, destruction or salvaging of equipment is not necessarily reserved to those who construct it is the first place, for such operations seldom if ever require comparable skills, but in the case at hand we believe the breaking of the track bonds, which had the effect of opening the circuit and affecting the whole signal system within the CTC was an appurtenance to and an integral part of the signal system and that under these circumstances it is embraced within the broad language of the contract. (See Awards 6584 (Bakke)) At least this view appear to us to be more logical than the opposite.

The Carrier's own Maintenance of Way rules, although no part of the agreement, lend some support to this view for they emphasize the importance of notifying the Signal Maintainer, when rail must be replaced, adjusted, or changed in bonded track.

The Carrier's argument that no one cut the bonds but that they merely broke as an incident of rolling out the rails does not appeal to us as realistic or as a valid reason for denying that any signal work was involved.

The Signal Maintainer was approached about being on hand but when he pointed out that he would be entitled to overtime his services were dispensed with for the two hours in question and the three days in question.

We believe that work here involved was work that accrues to Signalmen under the language of their agreement.

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 Employees involved in this dispute are respectively Carrier and Employees 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 there was a violation of the agreement.

AWARD

The claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 25th day of September, 1957.