

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

MARION BEATTY, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

GULF, MOBILE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Gulf, Mobile and Ohio Railroad (S.R.) that:

(a) The Carrier violated the Signalmen's Agreement effective August 1, 1951, as amended, when it improperly assigned the installation, maintenance, and repair of an annunciator circuit with associated appurtenances consisting of a bonded track circuit with insulated joints, track connections, track wires, instrument case, local source of energy and a relay and oscillator, to employees not covered by and who hold no seniority or rights under the Signalmen's Agreement.

(b) The proper employees of the Signal Department be compensated an amount equal to the amount the employees of another department were compensated for the installation, maintenance, and repair, to date, of the above described, and that all future signal work of this type and nature be properly assigned to the employees of the Signal Department.

EMPLOYES' STATEMENT OF FACTS: During the early part of 1954, this Carrier improperly assigned the installation, maintenance, and repair of an annunciator circuit near Bay Springs, Mississippi, to employees who are not covered by and who hold no seniority rights under the Signalmen's Agreement.

The signal work performed consisted of bonding track rails, installing insulated joints, installing track connections and track wires, mounting an instrument case on a pole, installing wires for the local source of energy, and installing a relay and oscillator, all of which are signal appurtenances and appliances and signal work covered by the Signalmen's Agreement.

The purpose of the annunciator is: When a train passes over the bonded circuit it shunts the track, which drops or energizes a relay which produces a tone which is transmitted over the dispatcher's circuit and is heard through the loud speaker in the dispatcher's office at Laura, Mississippi. The source of energy used to operate this annunciator was obtained from the Signal Department's signal installation relay case at the grade crossing protection

the claim as presented is too indefinite to require consideration. As to this, it must be said that the Division has in numerous instances where there was no identification of the aggrieved employee beyond particular status as a member of a class such as locomotive fireman first out on the extra list, and no identification of instances other than incidents of a kind which occurred on a day or days subsequent to the date of a described incident made findings and awards on a merit basis.

* * * * *

"If claims are to be considered on their merits without specific identification of employees affected and incidents of claimed infraction, it appears reasonable to say that there should be in the record that which will clearly lead to identification.

"Adopting this view for the purposes of this case, it must be said that the claim, except as to the incident of February 26, 1945, should be and is rejected for uncertainty. If an award in favor of the organization were to be made as to this rejected portion of the claim, it would be difficult, if not impossible, of enforcement under the legal processes prescribed and defined by the Railway Labor Act." (Emphasis added.)

The Award reads: "Claims denied."

Also see First Division Awards 16116, 16201, 16242 and 16282.

CONCLUSION

The oscillator which was installed at Mile Post G-134 is a device for the communication of sound over telephone and telegraph equipment and the installation was properly performed by telephone and telegraph linemen who are particularly qualified because of experience and training to make such an installation.

The signalmen's agreement is not applicable to the installation referred to in this case and the claim should be denied because it is not supported by the signalmen's agreement, the claim is vague and indefinite, and signal helpers are obviously not qualified to make the installation referred to.

The claim should be denied.

Carrier reserves the right to make an answer to any further submission of the Brotherhood.

OPINION OF BOARD: Signalmen complain that on February 2, 1954, a telephone and telegraph lineman, an employee of the Carrier's Communications Department, installed an annunciator at Mile Post G-134 near Bay Springs Mississippi.

The signalmen call it an annunciator; the Carrier calls it an oscillator, but it is evident that the oscillator was just one part of the installation in question.

The purpose of this installation was to provide a means whereby a train, when it passed over the track at that point, would energize a telephone type relay which, in turn, would cause an oscillator to transmit a high frequency tone over the Carrier's telephone wires to the train dispatcher's office located 23 miles distant at Laurel.

The Carrier denied the claim on the basis that the oscillator is communication equipment, made in the communications shop, rather than signal equipment, that the device transmits sound over the telegraph lines and that

such work is covered by the scope rule of the Brotherhood of Electrical Workers.

On the other hand the Signalmen claim that this particular job included bonding of track rails, installing insulated joints, installing track connections, mounting an instrument case on a pole, installing a relay, oscillator, batteries and wires connecting them.

Signalmen further argue that they have for years installed annunciators, both sound and visual, and that much of the work here involved is recognized as signal work by the Association of American Railroads in its publication, "American Railway Signaling Principles and Practices." They do not claim all of the work that was done here.

The Scope rule relied upon by claimants reads as follows:

"This agreement applies to and governs the rates of pay, hours of service and working conditions of all signal inspectors, foremen and all employes below the rank of foreman in the Signal Department engaged in the installation, maintenance and repair of signals, interlocking plants, automatic highway crossing protection devices, and all similar protective devices; wayside train stop and wayside train control equipment; car retarder systems; centralized traffic control systems; signal shop work; and the entire lines, poles, crossarms, wires and appurtenances of signal systems (except high tension wires, crossarms, poles and other supports for high tension wires).
* * *"

Up until May 10, 1946, communications and signal employes of this Carrier were represented by the same Brotherhood. There is some similarity in parts of their work and room for honest differences as to where to draw the line. It appears that we have elements of both crafts involved here.

The Carrier claims that it cannot chop up this work into segments. We appreciate the fact that it may be awkward, expensive and not practical to do so, but if the Carrier has bargained itself into a position where it is obligated to do so that settles the matter. We are inclined to believe that it has in this case and that part of the work here involved was typical signal work.

We hold that the track connections, including the bonding of track rails, installing of insulated joints, installing wires to the local source of energy and connecting these with the relay were signal work covered by the agreement. We will stop there and not include the setting of the relay in place for relays are common to both crafts and we are not convinced that the installation of this telephone type relay in this type of device is, by the agreement, the exclusive property of Signalmen. Installing the relay, oscillator and their instrument case and connecting them with the Carrier's telephone lines are excluded.

The matter is remanded to the parties to determine the number of hours involved in the work included above and the proper beneficiary.

Question of Procedure

The Carrier members of the Board contend that a third party is involved and that under Section 3 First (j) of the Railway Labor Act (45 USC 153, First (j)) this Board has no jurisdiction to proceed in this matter unless and until the third party is given due notice of hearing in accordance with the section. At an earlier stage in these proceedings the Carrier members of this Board moved that notice be given to the third party, but the motion failed for want of a majority. They now reassert the contention before this referee sitting as a member of the Division.

This device installed here at Mile Post G-134 was the first and only installation of its kind on the property. Maybe others will be installed but we have no evidence that they will. The Communications employes did the work on this job in eight hours and has been paid for it. Whether he or Communication employes, by a sustaining award in this case, ever will be deprived of future work in some other case is problematical. Under these circumstances we hesitate to hold that a third party or a genuine third party interest is "involved" as that word is used in Section 3 First (j) of the Railway Labor Act.

In view of the fact that this award will not adversely affect the third party we hold that no third party and no genuine third party interest are involved and we therefore deny the Carrier's request for notice to the third party.

We are not unmindful of our Awards Nos. 8050 and 8070 (by the same Referee as herein) but we do not feel that every time a third party is mentioned he is necessarily "involved" as that term is intended in the statute and we do not feel that we, as a practical matter, would be justified in complicating this case by giving notice to the Brotherhood of Electrical Workers on the mere speculation that there might be another such job in the future in which they might lose some work and that the Carrier might be confronted with claims from both crafts.

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 we find that there was a violation of the Signalmen's agreement to the extent described above.

AWARD

Claim (a) is sustained to extent indicated in Opinion and Findings.

Claim (b) is remanded to the parties for determination of the number of hours actually involved in performing that part of the work which we have described above as signal work and for determination of the proper beneficiary. Straight time pay for that number of hours is awarded to that employe.

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.