

**Award No. 8177**  
**Docket No. MW-7574**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Howard A. Johnson, Referee**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**

**GULF, MOBILE AND OHIO RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood:

(1) That the Carrier violated the effective agreement when it required or permitted Signal forces to erect and paint certain buildings used for the purpose of housing signal apparatus in connection with installation and operations of short-arm gates and flashers on the Eastern Division;

(2) That the Carrier further violated the agreement when it permitted Signal forces to install and paint short-arm gates and guard rails on the Eastern Division;

(3) That the Bridge and Building employees on the Eastern Division be allowed pay at their respective straight time rates for an equal proportionate share of the total manhours consumed by signal forces in the performance of the work outlined in Parts (1) and (2) of this claim.

**EMPLOYEES' STATEMENT OF FACTS:** In connection with the installation of automatic crossing gates on the Carrier's eastern Division, employees excepted from the Scope of the effective agreement between the Gulf, Mobile and Ohio Railroad Company and its employees on the Northern region who are represented by the Brotherhood of Maintenance of Way Employees, were permitted to install the gates and other fixtures in connection therewith, including the concrete foundations, guard rails, buildings housing signal equipment and the painting of all such fixtures and buildings.

All work of the character and nature above listed has been heretofore assigned to and performed by Bridge and Building employees. The Carrier contends that when electrically operated gates are substituted for and replace existing crossing gates operated by other means, all work in connection with their installation, repair and maintenance is thereby removed from the Scope of the instant Agreement.

The Employees make no claim for any electrical work in connection with crossing gates, but do contend that all other work in connection therewith should continue to be assigned to the employees who have always performed

Award 3251—Brotherhood of Railroad Signalmen of America vs. Southern Pacific Lines in Texas and Louisiana, Texas and New Orleans Railroad Company—involves a claim because Signalmen were not used to **repaint** signal apparatus and structures consisting of signals, posts, **relay cases**, train order signals, signal bridges, wig-wags and other crossing signals, **mechanism cases and time release cases**. The Board sustained the claim of Signalmen because they were not permitted to perform such work. The Board pointed out that:

“The work in question was clearly within the scope of the Signalmen’s Agreement. It was work ordinarily and customarily performed by Signalmen.”

Award 3684—Brotherhood of Railroad Signalmen of America vs. The Long Island Railroad Company—sustained a claim of Signalmen because they were not used in “touching up” derails and painting the top surface of ball handles of switch throw levers.”

Award 5249—Brotherhood of Railroad Signalmen of America vs. The Long Island Railroad Company—sustained the claim of Signalmen because Carpenters removed the wooden decking on two signal bridges.

Award 5476—Brotherhood of Railroad Signalmen of America vs. Chicago, Rock Island and Pacific Railroad Company—sustained a claim of Signalmen because they were not used to “construct certain concrete foundations for signals and signal supports.”

Award 5599—Brotherhood of Railroad Signalmen of America vs. The Delaware and Hudson Railroad Corporation—involves a claim of the Signalmen because they were not used to paint signal apparatus housing. The case was dismissed without prejudice because the Board had not complied with Section 3 First (j) of the Railway Labor Act. In Award 5599 the Signalmen argued that the painting of the signal apparatus housing was properly work of Signalmen and was generally recognized as signal work.

It will be readily apparent from examining the above referred to cases that this Board has, in numerous cases, sustained claims that Signalmen should perform the work complained of here.

### CONCLUSION

The claim should not be considered on behalf of Maintenance of Way Employees without giving the Signalmen due and proper notice and an opportunity to be heard.

The claim should be denied because it is vague and indefinite.

The claim should be denied because it is contrary to the agreement and past practice.

For the reasons herein set forth, the Carrier respectfully requests that the instant claim be denied.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The claim is that the Carrier violated the Agreement when it permitted Signal forces on the Eastern Division:

(1) To erect and paint certain buildings used for the housing of signal apparatus in connection with installation and operation of short-arm gates and flashers;

(2) To install and paint short-arm gates and guard rails.

This is a companion claim to Docket MW-7573, which has been disposed of by Award 8176, and which was limited to the claim of Bridge and Building

Carpenter Huddleston for four hours pay because signalmen had been permitted to repair an electrically operated crossing gate by bolting in a new wooden arm.

This claim is broadened to claim pay for "the Bridge and Building Employees on the Eastern Division \* \* \* for an equal proportionate share of the total manhours consumed by signal forces" in the above work, apparently from its start in 1936.

The only instance specifically mentioned is the gate repair at Springfield, Illinois, upon which the companion claim, Award 8176, is based, but the record, as in that claim, shows that since electrically operated crossing gates were first installed in 1936 their installation and repair has been handled by signalmen.

So far as the claim relates to the electrically operated short-arm gates it is disposed of by Award 8176, relating to the companion claim.

The record shows that the guard rails mentioned in paragraph (2) of the claim consist of steel pieces  $\frac{3}{8}$ " thick and 8" wide, bent to protect the base of the signal pedestal and welded to steel upright supports. Thus they are separate fixtures. But the record does not show that they are "made in B.&B. work" or that they are "permanently recognized as B.&B. work."

Paragraph (1) of the claim related to "certain buildings used for the purpose of housing signal apparatus" for the electrically operated crossing gates. These are steel relay boxes 6'3½" high, 10' long, and 1'10¼" deep; they are purchased from the manufacturer, are designed to house the electrical apparatus to operate the signals, and are set up on hollow pedestals through which the control wires pass. They have doors which close and lock to protect the mechanism, but are merely shallow boxes and cannot properly be described as houses or buildings. They cannot be entered and occupied by persons. Thus they are clearly not within the definition of "roadway buildings" in Article No. 30, the Classification of Work Rule.

It is clear from the record that these housing boxes for electrical mechanism are fixtures, but that they are neither "made in B.&B. work", nor "permanently recognized as B.&B. work", since they are purchased from the manufacturer, and are used only with the electrically operated crossing gates.

**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 the Carrier has not violated the Agreement.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon  
Executive Secretary

Dated at Chicago, Illinois, this 17th day of December, 1957.