

Award No. 10614

Docket No. SG-10002

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Phillip G. Sheridan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

SOUTHERN RAILROAD COMPANY ET AL

STATEMENT OF CLAIM: Claim of the Brotherhood of Railroad Signalmen of America on the Southern Railway Company et al. that:

(a) The Carrier violated and continues to violate the current Signalmen's Agreement when on or about November 1, 1956, it abolished positions in the Signal Relay Shop at Charlotte, N. C., Eastern Lines Seniority District and transferred the signal work formerly done in said relay shop to the relay shop on the Western Lines Seniority District located at Citico, Tenn.

(b) Signal Foreman R. P. Powell; Leading Signalman J. B. Nussman; Signalmen W. W. Scotter, R. B. Bigham, et al., who were or may be adversely affected, in the repairing, testing, and inspecting of signal relays and other signal equipment on the Eastern Lines Seniority District, be compensated at their respective overtime rates of pay on the basis of eight hours per day for all work performed by signal employees on the Western Lines Seniority District, on assigned work days and/or days of employment, beginning sixty days prior to September 1, 1956, and continue until a correction is made and the relay work and/or work on other signal equipment is returned to the employees on the Eastern Lines Seniority District and the violation discontinued, with respect to the signal employees on Western Lines Seniority District performing signal work that rightfully belongs to the signal employees assigned to and working on the Eastern Lines Seniority District.

(c) The Carrier be instructed and required to restore to the signal employees on the Eastern Lines Seniority District, that certain signal work of repairing, testing, and inspecting of signal relays and/or other signal equipment which has been, is now, or may be removed, transferred, or performed by employees on the Western Lines Seniority District, which rightfully belongs to employees on the Eastern Lines Seniority District, and such signal work confined to the proper seniority district and the employees entitled thereto.

(d) The Carrier be instructed and required to jointly check its records with the Brotherhood (General Chairman or other officer of the organization) to determine the signal employees adversely affected, those performing signal work not entitled thereto, and the proper payments due, subject to a sustaining award or other decisions of the Board. [Carrier's File: SG-10070]

EMPLOYEES' STATEMENT OF FACTS: Under the rules of the effective agreement between the Carrier and the Brotherhood, two seniority districts with definite limits are set up; they are known as Eastern Lines Seniority District and Western Lines Seniority District. The Carrier maintained a signal relay repair shop on the Eastern Lines Seniority District at Charlotte, N.C., wherein Signal Department forces repaired, tested, and inspected signal relays and/or other signal equipment. The current Signalmen's Agreement on this property was set up on the basis of two separate seniority districts and Signal Department employees' seniority rights accrue to them on that basis. Their seniority rights are confined to a definite seniority district.

On February 18, 1955, the Carrier notified the General Chairman that it was going to close the signal relay repair shop at Charlotte, N.C., and move the signal repair facilities from the signal shop at Charlotte, N.C., to a system signal repair shop at Citico, Tenn. The signal shop at Charlotte, N.C., performed the signal work of repairing, testing, and inspecting signal equipment that rightfully accrued to them from the Eastern Lines Seniority District. The signal shop at Charlotte, N.C., was manned by employees who held seniority on the Eastern Lines Seniority District only.

On or about November 15, 1955, the Carrier closed the signal repair shop at Charlotte, N.C. (Eastern Lines Seniority District), and abolished all of the Signal Department positions assigned to the signal shop. The closing of the signal shop at Charlotte, N.C., resulted in the abolishment of the following positions: One Signal Foreman, one Leading Signalman, five Signalmen, two Assistant Signalmen, and one Signal Helper. The Carrier's action in closing the signal repair shop at Charlotte, N.C., left the Eastern Lines Seniority District forces without facilities for repairing, testing, and inspecting signal relays and signal equipment.

The removal of the signal repair work and facilities in the instant case from Signal Department employees on the Eastern Seniority District at Charlotte, N.C., to Signal Department employees on the Western Seniority District at Citico, Tenn., has had an adverse effect on the Signal Department employees on the Eastern Lines Seniority District. The signal employees on the Eastern Lines Seniority District hold no seniority rights on the Western Seniority Lines District and, accordingly, cannot be used in the new signal shop at Citico, Tenn. (Western Seniority Lines). The seniority rights of the Signal Department employees on this Carrier are restricted by the current Signalmen's Agreement to a definite district under the supervision of a Signal and Electrical Superintendent. The Signal Department employees are entitled to all signal work that accrues on or from their respective seniority districts.

General Chairman Melton did not condone this action of the Carrier in closing the signal shop at Charlotte, N.C., and transferring or diverting the signal repair work from this shop that rightfully accrues to Eastern Lines Seniority District signal employees, to signal employees on the Western Lines Seniority District who hold no seniority or rights to perform the duties of repairing, testing, and inspecting of the Eastern Lines signal relays or equipment.

While technically these two laws do not apply in the railroad industry, nevertheless, their express provisions are significant because in the instant case the Brotherhood is attempting to cause the Carriers to pay or deliver or agree to pay or deliver money, in the nature of an exaction, for services which were **not** performed.

Claim being barred, and the point at issue having been conceded by the Brotherhood before it attempted to prosecute a monetary claim, should be dismissed by the Board for want of jurisdiction, but, in event it is not dismissed, it should be denied as being without any basis whatsoever.

All evidence submitted in support of the Carriers' position is known to employe representatives.

Carriers, not having seen the Brotherhood's submission, reserve the right to reply thereto when apprised of its contents.

(Exhibits not reproduced.)

OPINION OF BOARD: Their is no merit to the procedural issue.

The contemplated change of the Carrier's facilities were known to the Organization by virtue of information given to them by the Carrier.

An attempt was made by the Carrier to allocate some of the displaced Employes from the curtailed District to the new shop. The General Chairman replied that the Employes would have to be from the Western Lines Seniority District. The Carrier complied. All of this was done pursuant to Rules 5 and 6 of the Agreement. Thus the matter was accepted as agreed upon.

Further, there is nothing in the rules to prohibit the Carrier from changing its facilities. The Agreement was not violated.

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 was not violated.

AWARD

Claim denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of May 1962.