

Award No. 10977
Docket No. SG-10051

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

NEW ORLEANS UNION PASSENGER TERMINAL

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the New Orleans Union Passenger Terminal that:

(a) The Carrier violated the Scope Rule and other provisions of the Signalmen's Agreement when on or about December 15, 1956, it arbitrarily diverted or otherwise assigned generally recognized signal work to employees of its electrical department who held no seniority or rights to any signal work covered by the Signal Employees' Working Agreement.

(b) The Carrier now compensate the members of Signal Gang No. 2, namely, Signal Testman M. T. Byrd and Signal Maintainers A. E. Barkdull and R. J. Schoendorf, at their respective pro rata rate of pay for an amount of time equivalent to that worked by this Carrier's electrical department employees during the installation and all subsequent maintenance of the signals, appurtenances, and appliances installed at the end of station tracks 1 through 12 for expediting the movement of trains out of the station.

(c) The Carrier now return the maintenance, inspection, repair, etc., of the above-cited signals and appurtenances to the employees covered by the Signalmen's Agreement and allow the above-cited employees compensation for any and all overtime calls at their respective overtime rates of pay for an amount of time equal to that claimed by employees who performed such overtime work.

EMPLOYEES' STATEMENT OF FACTS: On or about December 15 through 28, 1956, this Carrier installed signal lamps on the Engineer's side of tracks 2, 4, 6, 8, 10, and 12, and on the Fireman's side of tracks 1, 3, 5, 7, 9, and 11, beneath the rear end of each train shed at the passenger station at New Orleans, Louisiana.

All data given in support of the Carrier's position has been presented to the claimants or their representatives and are made a part of the question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: This is a dispute between The Brotherhood of Railroad Signalmen of America and The New Orleans Union Passenger Terminal.

The Carrier installed signal lamps beneath the rear end of each train shed at the passenger station at New Orleans, Louisiana. The lamps are a signal to the conductor that the train is ready for departure.

Petitioner claims that it is signal work. Carrier contends that Claimants were not qualified under city ordinance requiring licensed electricians.

"Article 5002.

"**LICENSE REQUIRED.** Any person, firm or corporation who engages in the business of constructing, installing, or repairing electrical wiring and equipment who is not or does not employ a Licensed Electrician shall be held in violation of this Code."

The above ordinance makes it illegal for a person to perform electrical wiring without an electricians certificate. There is no evidence from the record that any of the Claimants were licensed. All contracts or Agreements must recognize existing laws. Therefore Claimants are not entitled to the work. There are other issues but since the claim falls for this reason, we see no need to determine other issues.

For the foregoing reason, we believe the Agreement was not violated.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 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 18th day of December 1962.