

Award No. 11612

Docket No. SG-11180

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Charles H. Webster, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN RAILWAY COMPANY

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

(a) The Carrier violated and continues to violate the current Signalmen's Agreement, commencing on or about May 5, 1958, when it farmed out, contracted, or otherwise caused or permitted Scope work at Andrew's Yard, Columbia, South Carolina, to be diverted and/or transferred to persons not covered by the Signalmen's Agreement on the Southern Railway System Lines.

(b) The signal employees of this Carrier entitled to and who were affected by this violation be paid at their respective rates of pay for their proportionate share of the total time consumed by persons not covered by the agreement in performing the Scope work as referred to in part (a) of this claim.

(c) The Carrier furnish records and make a joint check with the Brotherhood to determine the man-hours of signal work consumed and/or performed by all persons not covered by the agreement, and to determine what signal employees were affected and entitled to perform the Scope work, together with the amount of money due each signal employee in the settlement of this claim. This claim to begin on the first date of agreement violation within the 60-day time limit prior to date and receipt of this letter, and continue thereafter so long as the Scope work is performed by persons not covered by the agreement. First consideration to furloughed and/or reduced signal employees in the order of their regular classification and seniority in the class from which furloughed or reduced, including Mr. A. G. Thompson, Signal Foreman, et al., who may be affected by this violation of the agreement. [Carrier's File: SG-12168]

EMPLOYEES' STATEMENT OF FACTS: Various yards on this Carrier's system include tracks and other facilities that are used by shop forces in repairing damaged and/or worn cars. Ordinarily, a part of each repair track will be under a shed so that repair work can be performed during all kinds of weather, while the remainder of the track may be used as storage.

hood seeks to subdivide the work and lay claim only on a part of the major construction job contracted. Prior awards of the Board completely negative such a contention.

Furthermore, special skills, special materials and special equipment were required to do the work. Signal forces do not have the special skills required to do all electrical work of the type here contracted; nor did they have the special equipment or special materials in their possession. Then, too, the work was of great magnitude and involved a considerable undertaking. Prior awards of the Board fully support the Carrier's action in contracting the whole construction job.

CONCLUSION: Carrier has shown that:

(a) The claim and demand which the Brotherhood here attempts to assert are barred by the plain, unambiguous language of the agreement in evidence.

(b) The effective Signalmen's Agreement was not violated as alleged and the claim and demand are not supported by it. The involved work was not "signal work" or "generally recognized signal work," nor was there a signal system involved. To the contrary, it was electrical work on a car repair facility, a Mechanical Department operation.

(c) Carrier's action in contracting the work was fully supported by prior Board awards. Furthermore, the Scope Rule of the Agreement in evidence clearly recognizes management's right to contract large installations of the type here involved in connection with the performance of new work. The job was new work. A new car repair facility was constructed.

Claim, being barred, should be dismissed by the Board for want of jurisdiction. If, despite this fact, the Board assumes jurisdiction, it cannot do other than make a denial award, because an award of any other type would be contrary to the plain unambiguous language of the agreement in evidence.

Carrier, not having seen the Brotherhood's submission, reserves the right after doing so to make response thereto and present any other evidence necessary for the protection of its interests.

OPINION OF BOARD: An examination of the record in this case indicates that the employees failed to prove that this was Signalmen work. Awards 11162 and 11369 therefore govern and a denial award is in order.

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 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 12th day of July 1963.