

Award No. 12337
Docket No. SG-11648

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN RAILWAY COMPANY
THE NEW ORLEANS TERMINAL COMPANY

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

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when it allowed a contractor, the Brooks-Allison Electric Company, whose employes hold no seniority or other rights under the Signalmen's Agreement, to perform signal work in connection with the installation of car repair facilities at Asheville, North Carolina beginning on or about July 28, 1958.

(b) The Carrier should now be required to compensate Signal Maintainer J. W. Herron, (on whose territory the work at Asheville, North Carolina, was performed), cut back or furloughed Signal Foreman, Signalmen, Assistant Signalmen and Signal Helpers, at their respective rates of pay for all hours worked by the contractor and his forces while performing recognized signal work on the repair track installation at Asheville, North Carolina, between the dates of July 28 and November 14, 1958.

(c) The Carrier further violated the current Signalmen's Agreement, as amended, particularly the Scope, when it allowed a contractor, whose employes hold no seniority or other rights under the Signalmen's Agreement, to perform signal work in connection with the installation of car repair facilities at New Orleans, Louisiana, beginning on or about September 14, 1958.

(d) The Carrier should now be required to compensate Signal Maintainers E. E. Parker and O. A. Kirsh, and other signal employes who would be entitled to the work on seniority basis, at their respective rates of pay for all hours worked by the contractor and his forces while performing recognized signal work on the repair track installation at New Orleans, Louisiana, retroactive 60 days from November 14, 1958, and continuing thereafter so long as the signal work is performed by persons not covered and who hold no seniority or other

rights under the Signalmen's Agreement, either by the contractor and his forces or others, until the proper correction is made and the violation discontinued. [Carrier's File: SG-12858.]

EMPLOYES' STATEMENT OF FACTS: As indicated by our Statement of Claim, this dispute involves the question of the Carrier having contracted the installation of certain car repair facilities at Asheville, North Carolina, and New Orleans, Louisiana. The car repair facilities are similar to those involved in claims now before this Board under Dockets SG-10708, SG-11111 and SG-11180, involving this Carrier. The employees of the contractors who performed the work at Asheville and New Orleans hold no seniority or other rights under the Signalmen's Agreement.

The dispute involved herein was initiated as two separate claims, one for the installation at Asheville and the other for the installation at New Orleans. As both claims involved the same type of work and the same agreement provisions, the General Chairman of the Brotherhood combined them in his appeal to the highest officer of the Carrier designated to handle such disputes, and they are so combined in the dispute involved herein.

In connection with the installation at Asheville, North Carolina, Mr. F. P. Higginbotham, Local Chairman, wrote the following letter, dated October 8, 1958, to Mr. C. L. Kale, Signal and Electrical Supervisor:

"It has been brought to my attention that a Contractor is and has been performing work in connection with the installation of the Car Repair Track, now under construction in Asheville, in violation of the current Signalmen's agreement. To name some of the work they have been performing, installing insulated track joints, switch circuit controllers, wiring relay cases and other work generally recognized as Signal work.

Please advise if you will correct this violation of our agreement at once and have this work performed by men covered by the Signalmen's agreement. There are plenty of these men available since more than fifty have been furloughed.

Also in this same connection, Mr. T. R. Hill has been performing work covered by the Signalmen's agreement. Mr. Hill is an Asst. Signal Supervisor and should do no work that replaces a signalman or Asst. Signalman."

Signal and Electrical Supervisor Kale wrote the following replies, dated October 23 and November 11, 1958, to Local Chairman Higginbotham:

"I have your letter dated October 8, 1958, regarding Contractor performing work in connection with the installation of the Car Repair Shed, Asheville, N.C.

To my knowledge there has not been any violation of the Signalmen's Agreement in connection with this work and I cannot make any changes as requested in your letter.

Mr. Hill has not been doing any actual work in connection with installation of the Repair Track and Shed. His duties have been supervision only.

I am, therefore, declining your request."

part of the claim relating to the work performed at New Orleans prior to September 16, 1958 and that part of the claim relating to the work performed at Asheville prior to September 28, 1958 are barred by the Agreement of August 21, 1954.

(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 — not a Signal and Electrical Department operation.

(c) Carriers' action in contracting the work was fully supported by prior Board awards. Furthermore, the scope rule of the agreement in evidence clearly recognizes the management's right to contract large installations of the type here involved in connection with the performance of new work. The two involved construction projects were new work. New car repair facilities were constructed at Asheville, N.C. and New Orleans, La.

Parts (b) and (d), as they relate to unnamed persons for unspecified amounts on unidentified dates, and the parts relating to work performed at New Orleans prior to September 16, 1958 and at Asheville prior to September 28, 1958, being barred, should be dismissed by the Board for want of jurisdiction. The remainder of the claim should be denied, as it is completely without merit and unsupported by the agreement in evidence.

OPINION OF BOARD: Awards No. 11369, 11162, and 11612, which involved the same parties and the same type of work as in the instant case held that the work in question was not signalman work. Accordingly, we, too, find that 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 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

The Agreement of the parties 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 13th day of March 1964.