

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Erie Railroad Company:

In behalf of Leading Maintainer C. P. Tillotson and Maintainer R. E. Huntley for six (6) hours overtime account Section Foreman performing signal work at SN Interlocking from 8:00 P.M. on December 9, 1958, until 8:00 A.M., December 10, 1958.
[Carrier's File No. 115.1-4]

EMPLOYES' STATEMENT OF FACTS: On December 9, 1958, the Carrier called Section Foreman L. J. Barbutis at 8:00 P.M. to protect SN Interlocking Plant on account of snow conditions. At 11:00 P.M. on the night of December 9, 1958, Mr. C. L. Nichols, the second trick Operator, came on duty and after commencing work, found that the interlocking plant levers were throwing unusually hard and were not operating properly. Section Foreman Barbutis assisted Operator Nichols in throwing the levers and also helped by pushing over the interlocking switches with a track lining bar. Section Foreman Barbutis assisted Operator Nichols in throwing the levers of the interlocking plant until 8:00 A.M. on December 10, 1958, at which time Leading Signal Maintainer C. P. Tillotson and Signal Maintainer R. E. Huntley reported for work at the interlocking plant. The interlocking plant was still not functioning properly and first trick Operator F. P. Baudisch requested Leading Signal Maintainer Tillotson and Signal Maintainer Huntley to stay at the interlocking plant and assist with the operation of the plant. Leading Signal Maintainer Tillotson called the Signal Supervisor concerning the situation at SN Interlocking and the Signal Supervisor told him to stay at the plant to insure its proper operation. Section Foreman Barbutis left the interlocking plant at 8:00 A.M. on December 10, 1958.

Leading Signal Maintainer Tillotson and Signal Maintainer Huntley are the regular assignees to a signal maintenance territory which includes the maintenance of SN Interlocking Plant, and it is their responsibility to see that all signal apparatus is properly maintained and that it functions in a proper manner.

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“The rule is well established that the Board is required to take the agreement as it is written, and cannot rewrite it by interpretation nor by interpretation put in that which the parties have left out.”

IV. CONCLUSION

Carrier has herein shown that the work performed by the section foreman of lending a helping hand with the lever and barring a switch is work that has historically been performed by other than signal department employees. And, Carrier has also shown that the scope rule of Petitioner's Agreement does not contain exclusive right to this work. Notwithstanding this, the claim is not specific and there is absolutely no foundation for a claim of six hours overtime for each of the claimants. The preponderance of the work performed by the section foreman was most certainly that of cleaning snow from the switches. The time spent lending a hand with a lever and barring a switch was so minute that the claim would be without foundation on this basis alone.

Carrier has also herein shown that signal department employees do not now have and never have had exclusive right to clean snow from switches at interlocking plant. In light of the pronouncements made by the General Chairman, this cannot be successfully refuted. Consequently, there can be no possibility of a claim because the section foreman, and not the claimants, was used to clean snow from the switches.

Based upon the foregoing facts, Carrier submits that this claim is nothing more than a studied attempt to gain by way of a favorable decision of this Board, work that has never heretofore belonged exclusively to signal department employees. Carrier repeats that this Petitioner should not be allowed to do.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim is presented because of a Section Foreman assisting an Interlocker Operator in the operation of the Carrier's SN Interlocking Plant. The Petitioner bases its claim on the Scope Rule of its agreement with the Carrier which rule covers employees “engaged in the construction, installation, inspecting, testing, maintenance and repair either in the Signal Shop or field of” certain listed signal devices and systems and “all other work generally recognized as signal work.”

We do not find that the assistance rendered to the Operator in the performance of Operator's work constituted construction, installation, inspection, testing, maintenance, or repair of a signal device or system. Neither do we find that the Petitioner has presented any evidence of probative value to establish that the work was of a character generally recognized as signal work.

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 19th day of June 1964.