

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Air Line Railroad Company that:

(a) The Carrier violated the current Signalmen's Agreement when, beginning on or about February 1, 1959, it contracted and/or farmed out generally recognized signal work by having Contractor and his forces install messenger wires and signal cables, including junction boxes and their connections, at or near Richmond, Virginia.

(b) Signal Employees, Messrs. J. W. Powers and H. L. McCrimmon, Foremen; C. C. Clayton, Jr., W. E. Warren, M. Bergman, T. N. Lynch, C. W. Middleton, G. G. Lewter, M. M. Thomas, J. P. Spies, W. O. Judy, R. G. Maynard, D. J. Smith, N. H. Upchurch, D. L. Tyler, M. E. Drury, and R. W. Beddingfield, and/or their successors in the signal gangs, should be compensated at their respective overtime rates of pay on a proportionate basis (of days worked) for all man-hours of service performed by the Contractor and his forces, beginning February 27, 1959, and continuing thereafter so long as the Contractor and his forces, or persons who hold no seniority and other rights under the Signalmen's Agreement, are used to perform signal work in violation of the agreement.

(c) The Carrier should furnish records and/or information on the number of man-hours worked by the Contractor and his forces in performing all signal work at or near Richmond, Virginia, between the beginning and end of the service performed by the Contractor and his forces, as indicated in this claim, in order that a proper settlement can be made if the claim is sustained in whole or in part.

[Carrier's File: Sig. 10, Sig. 22]

EMPLOYEES' STATEMENT OF FACTS: During the time involved in this dispute the Carrier was engaged in installing a Centralized Traffic Control (CTC) system at Richmond, Virginia. Two signal gangs, under the direction of Signal Foremen J. W. Powers and H. L. McCrimmon, were assigned to perform the signal work in connection with this installation. The claimants in this dispute are the employees of these two signal gangs.

While ignoring that part of Rule 45 pertaining to work on Western Union pole lines, and describing the work as a small installation and also as a small part of such installation, the General Chairman actually clearly refuted his contentions that the work was improperly contracted. Bearing in mind that the claim was filed on April 28, 1959 based on alleged violation beginning February 1, 1959, and continuing so long as contractor forces performed the work would of itself show that it was not a small job, and the National Railroad Adjustment Board has clearly established the principle that the project should be treated as a whole, carrier not being required to split up work so as to contract part of it and retain part for its employees to perform. The work performed by contractor was not generally recognized as signal work. Work on communication lines and wires belongs to Electrical Workers under the Federated Shop Crafts' Agreement, and the fact that such craft made no claim for work performed by contractor would not make it work that could be claimed or assigned to Signalmen.

It is a well established principle of the Board that the burden of proof is on the one who asserts the claim; however, the Brotherhood presented no evidence whatever in support of the claim, simply making vague, indefinite and generalized allegations.

There is no merit whatever to the claim and it should accordingly be declined.

OPINION OF BOARD: The record in this case leaves much to be desired. The Claim, as presented in Petitioner's submission is vague and indefinite and in the presentation on the property there are many inconsistencies. From a reading of the record it is not clear as to just what work is involved. Frankly, it is not all clear from the submissions of either side as to just what did happen.

The burden of establishing facts sufficient to require or permit the allowance of a claim is upon him who seeks its allowance. Petitioner has completely failed to furnish any factual proof of any violation of the agreement. It naturally follows that any effort on our part to determine the rights of the subject parties would be a futile one.

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

Petitioner has failed to establish facts sufficient to sustain this claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of October 1964.