

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Robert J. Ables, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Baltimore and Ohio Railroad Company:

(a) That the Carrier has violated and continues to violate the Signalmen's Agreement, when Signal Gang No. 3 was arbitrarily transferred from their headquarters in camp cars at Frederick Jct., to other camp cars at Woodbine, Md., without moving the camp cars to which regularly assigned.

(b) That Foreman M. A. Walters, Signalmen S. I. Legg, T. D. Younkens and R. E. O'Brien, each be allowed 1 hour travel time at straight time rate each day, in accordance with the Rules, commencing June 1, 1959, to continue so long as this violation exists, to compensate them for traveling outside working hours from Frederick Jct., to Woodbine, Md., and return.

(c) That Mr. M. A. Walters be allowed automobile expense at 6 cents per mile for 47 miles traveling between Frederick Jct., and Woodbine, Md., each day and return, commencing 1-5-11-17-23-29, and subsequent days that he drives his automobile to work at Woodbine, so long as this violation continues.

(d) That Mr. S. I. Legg be allowed automobile expense at 6 cents per mile for 47 miles traveling between Frederick Jct., and Woodbine, Md., and return each day commencing June 2-8-12-24-30, and subsequent days that he drives his automobile to work at Woodbine, so long as this violation continues.

(e) That Mr. T. D. Younkens be allowed automobile expense at 6 cents per mile for 47 miles traveling between Frederick Jct., and Woodbine, Md., and return each day commencing June 3-9-15-19-25, and subsequent days that he drives his automobile to work at Woodbine, so long as this violation continues.

(f) That Mr. R. E. O'Brien be allowed automobile expense at 6 cents per mile for 47 miles traveling between Frederick Jet., and Woodbine, Md., and return each day commencing June 4-10-16-22-26, and subsequent days that he drives his automobile to work at Woodbine, so long as this violation continues.

EMPLOYES' STATEMENT OF FACTS: The Claimants in this dispute were regular assignees to positions in Signal Gang No. 3 with headquarters in camp cars located at Frederick Junction, Maryland. Signal Gang No. 2 with headquarters in camp cars was also located at Frederick Junction, Maryland.

On June 1, 1959, Signal Gang No. 3 was transferred to Woodbine, Maryland, a point some 20 miles East of Frederick Junction. The camp cars to which Signal Gang No. 3 was regularly assigned at Frederick Junction were not moved with the gang to Woodbine from Frederick Junction, and the Carrier assigned Signal Gang No. 3 to other camp cars which were located at Woodbine.

In view of the Carrier's action in arbitrarily transferring Signal Gang No. 3 from their regular assigned camp car headquarters at Frederick Junction to other camp cars at Woodbine, claims were filed in behalf of the Claimants by Local Chairman D. L. Esworthy for one hour each at the straight time rate for each day they were required to travel outside of their regular working hours from their regular assigned camp car headquarters at Frederick Junction, to Woodbine and return, in addition to automobile expenses incurred as a result of being required to travel from Frederick Junction, to Woodbine and back, each day.

The claims were filed with Mr. J. H. Lindsay, Division Engineer, and denied by him on August 14, 1959. On August 25, 1959, General Chairman H. C. Guscott wrote Division Engineer Lindsay and advised him that it was the desire of the Local Committee to progress the claims further and, therefore, he desired a conference on the matter.

Subsequently, on September 10, 1959, a conference was held between General Chairman Guscott and Division Engineer Lindsay at which time the following Memorandum of Conference was drafted:

"MEMORANDUM OF CONFERENCE

**BETWEEN: THE BALTIMORE AND OHIO RAILROAD
COMPANY AND THE BROTHERHOOD OF RAILROAD
SIGNALMEN OF AMERICA, SEPTEMBER 10, 1959**

Present at Conference:

**H. C. Guscott, General Chairman,
Brotherhood of Railroad
Signalmen of America**

**G. A. DeLozier, Vice Chairman,
Brotherhood of Railroad
Signalmen of America**

**J. H. Lindsay, Division Engineer,
B&O Railroad**

ganization attempted, but failed, to have this rule changed through negotiations.

Sections 14 and 16 of Article II makes no difference between the performance of work within an employe's home seniority district and a foreign district. This Board cannot by interpretation find such a distinction. The letter Agreement of the parties dated March 4, 1943, confirming their understanding of the proper application of these identical Sections contains no limitation in its Preamble to the matter of the performance of work on the employe's home seniority district. Section 2 of this letter Agreement does contain such a limitation, but related specifically, however, only to the procedure to be followed in selecting the employes to be assigned to this work. Section 4 of the same document, after referring to Section 14 and 16 of Article II, states: 'It being understood that the camp cars furnished them at the point to which sent need not necessarily be those occupied by the signal gang from which they are detached.' The record does not show that this letter Agreement was ever abrogated. Even if it be assumed, for purpose of discussion, that this letter Agreement of March 4, 1943, was intended to be limited only to performance of work in the employe's home seniority district, the Board in constructing the language of the effective Agreement dated February 1, 1946, cannot find that the parties reasonably intended that while the car occupied need not be the particular car, while work is done in the Missouri Division, the home seniority district, it must be the identical car if work is done in the Illinois Division, a foreign district."

Thus this Division expressly overruled the organization's contention, first of all, that the claimants had been assigned to certain camp cars, and, secondly, that "these particular camp cars" should have been made available to the claimants. The Board held in effect that there were no assignments to particular camp cars and that there was no requirement in the rules that "particular camp cars" should be made available to the claimants. It will be observed, therefore, that a similar issue has already been decided before this Division.

CARRIER'S SUMMARY: Carrier submits that in this case there is no valid claim coming from employes under the Signalmen's Agreement. This claim at all its parts is wholly without merit, and should be denied. Carrier respectfully requests that this Division so rule and that the claim in its entirety be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: To sustain this claim we would have to find that the Carrier violated Rule 41 (c) of the Agreement when it did not move the specific camp cars from one headquarters for a signal gang to another headquarters but instead provided equally good camp cars at the new headquarters.

Such a construction of the rule would be straining good sense.

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 Employes involved in this dispute are respectively Carrier and Employes 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 15th day of December 1964.