

Award No. 13276

Docket No. SG-11738

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Francis M. Reagan, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

HUDSON & MANHATTAN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Hudson and Manhattan Railroad Company:

In behalf of Signal Repairman P. Neubelt, with headquarters at 33rd Street Interlocking, for 8 hours at the prevailing electrician's rate of pay, when and because, on the instruction and direction of Signal Foreman McDermott, Mr. Neubelt performed work covered by the Scope of the H&M Agreement on Friday, December 12, 1958, by entering into the power breaker room at the 30th Street end of 33rd Street Terminal, and cut off the third rail power feed on Track No. 1. [Carrier's File—Time Claim No. 121]

EMPLOYEES' STATEMENT OF FACTS: Mr. Paul Neubelt is assigned to the position of Signal Repairman with headquarters at 33rd Street Interlocking and assigned working hours from 8:00 A. M. to 4:00 P. M., Monday through Friday; rest days are Saturday and Sunday.

On Friday, December 12, 1958, Signal Repairman Neubelt was directed by Signal Foreman McDermott to enter into the power breaker room at the 30th Street end of the 33rd Street Terminal and cut off the third rail power feed on track No. 1, which service is not covered by the Scope of the Signalmen's Agreement but is covered under the Scope of the Electricians' Agreement.

In view of the fact that Signal Repairman Neubelt was required to perform a service that was not covered by the Scope of the Signalmen's Agreement, a claim was filed in his behalf by General Chairman J. J. Reese with Mr. A. D. Moore, Superintendent Signal System and Way, under date of December 26, 1958, as follows:

"Formal claim is hereby submitted.

This claim is submitted by the Signalman's Committee of the B.R.S.ofA. in behalf of Signal Repairman P. Neubelt, with headquarters at 33rd St. Interlocking, for 8 hours at the prevailing Electricians' rate of pay, when and because, on the instruction and direction of Signal Foreman McDermott, Mr. Neubelt performed work covered by the Scope of the H&M-IBEW Agreement on Friday

In conclusion, we submit that the provisions of the Signalmen's Agreement and the facts in the record support our position in this dispute, and we respectfully request your Board to so hold and sustain the claim of the Brotherhood.

CARRIER'S STATEMENT OF FACTS: The Hudson & Manhattan Railroad Company is presently a Debtor in Reorganization under Chapter X of the Bankruptcy Act in the United States District Court for the Southern District of New York, and Herman T. Stichman is Trustee of the Debtor. (Hereafter "Carrier").

The Carrier operates a rapid transit electrified service between the Borough of Manhattan in New York City and points in Jersey City and Hoboken, New Jersey. Its operations are similar to those of the New York City subway system.

On December 12, 1958, a passenger train arrived at Carrier's underground terminal at 33rd Street in New York City. The motorman was unable to cut off the traction motors on one car. The wheels commenced spinning thereby threatening extensive damage to the equipment and track and possibly causing a fire which would endanger passengers, employes and property.

Mr. Neubelt, on whose behalf BRS has filed this claim ("claimant") observed the above situation arise and called his foreman to tell him of it. The foreman responded immediately that the power should be cut off and, when told by Claimant that no electrician was available, he directed Claimant to cut off the power in the station. Claimant then pushed a lever. For this act of a mere instant in an emergency, BRS seeks 8 hours penalty pay.

POSITION OF CARRIER: We submit that Claimant was not excluded from pushing a lever to cut off power in an emergency by either the agreement with BRS or the agreement then in effect with the organization representing electricians ("IBEW"). The latter agreement did not refer to operation of power levers but related to "repair, maintenance, inspection and testing".

In any event, the amount of "work" involved was trivial and should never have been the subject of a claim.

CONCLUSION: The claim is without merit and should be denied.

OPINION OF BOARD: A thorough review of the record has been made.

Requiring Claimant herein during his regular work hours to perform the action of shutting off the power on a third rail line of the Carrier at its 33rd Street Terminal during an emergency situation, an act allegedly within the Electricians Scope Rule is not violative of the Signalmens' Agreement. Conform Award No. 7170 (Cluster) and others.

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 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 has not been shown to have been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of February 1965.