

Award No. 13746

Docket No. SG-13791

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Terminal Railroad Association of St. Louis that:

Claim is filed on a continuing basis, retroactive 60 days from the date claim was initially filed (November 2, 1961), or date that the actual work commenced by outside parties on the dismantling, reconditioning and changes on the riverfront highline at St. Louis, Missouri, involved in the changes in the signaling systems, appurtenances, appliances and equipment, until such time as the signal work is properly returned to and performed by this Carrier's Signal Department employees under the coverage of the current Signalmen's Agreement, as follows:

(a) The Carrier violated and continues to violate the current Signalmen's Agreement when it contracted, farmed out, assigned or otherwise permitted scope work to be performed by parties and persons not covered by the Signalmen's Agreement on the highline, St. Louis, Missouri.

(b) That Signal Construction Foreman E. E. Owens and the employees of Construction Gang No. 4, namely, Leading Signalman J. F. Dosing, Signalmen C. K. Highley, W. F. Mueller, E. Bubla, F. Leming, B. Mathias, and K. K. Kapelski, be paid at their respective overtime rates of pay for a proportionate share of the time consumed by the parties and persons in the dismantling, reconditioning, and other signal work referred to in this letter and part (a) hereof, until such time as all the scope work is properly assigned to Signal Department employees and actually being performed by such employees.

(c) Since the Signal Department employees and the Brotherhood do not have access to records and time rolls showing the amount of time consumed by the parties and persons who have and

Exhibit E—Chief Engineer Hanna's reply of December 29, 1961 to General Chairman Highley.

Exhibit F—General Chairman Highley's appeal dated January 29, 1962 to Manager, Labor Relations Henry Miller, Jr.

Exhibit G—Manager, Labor Relations Miller's reply of March 19, 1962 to General Chairman Highley, confirming conference held on March 16, 1962 with the General Chairman and a Vice President of the Organization.

The employees involved herein are subject to the Rules Agreement effective July 13, 1950, as amended by Memorandum of Agreement dated May 28, 1959, copies of which are on file with the Secretary of this Division.

POSITION OF CARRIER: It is the position of the Carrier, as explained above, that the "dismantling" work allegedly covered by the Signalmen's Agreement was not contracted for by the Carrier, but by the National Park Service, an agency of the United States of America. The Bill of Sale (Carrier's Exhibit A) was effective on October 2, 1961, on which date the Carrier abandoned operations on the old elevated structure and ownership of the structure was transferred on that date to the National Park Service.

As explained in the Carrier's Statement of Facts, after transfer of the property to the National Park Service, that body arranged for razing of the structure, and none of the material was salvaged by the Carrier or turned over to us.

In conclusion, it is the Carrier's position that it had the legal right to donate its property and that after such transaction, ownership of the property was then vested in the National Park Service; that the work of the new owner in razing the abandoned structure was not work accruing to the Carrier's employees, nor could it in any sense be considered "dismantling" of signal equipment within the meaning of the Agreement between the parties.

There was no violation of the Agreement and the claim should be denied in its entirety.

(Exhibits not reproduced.)

OPINION OF BOARD: This and Award No. 13745 are companion cases. Petitioner avers that the Agreement was violated in that the employees covered were not permitted to dismantle the signalling equipment of the elevated track which was razed.

Carrier transferred all rights, title and interest in the elevated track to the Government as is where is. The Government alone had control of the dismantling. Therefore, for the reasons stated in Award No. 13745, we will deny the Claim.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of July 1965.