

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

P. M. Williams, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

FLORIDA EAST COAST RAILWAY COMPANY

STATEMENT OF CLAIM : Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Florida East Coast Railway Company that:

(a) The Carrier violated the Signalmen's Agreement, as amended, when Inspector U. D. Payne, an employe not covered by the Signalmen's Agreement, closed the disconnect switches on high voltage signal lines at Titusville, Florida, Signal Section No. 8, on March 6, 1962.

(b) Signal Maintainer B. L. Burke and Signal Helper Raulerson be compensated for two (2) hours and forty (40) minutes at their respective overtime rates of pay account Inspector Payne performing this signal work.

EMPLOYEES' STATEMENT OF FACTS: On March 6, 1962, there was an unusual number of wood fires on the Railway, which resulted in damage to the 4,400 volt transmission line in various locations. Inspector U. D. Payne, an Inspector, who is an employe not covered by the Signalmen's Agreement, had determined that repairs had been or were being made by a signal gang near Cocoa and Maintainer Burke with Helper Raulerson between Edgewater Junction and Titusville. Both of these locations are south of Titusville and between that town and MP 180. After conversing with the Wire Chief, Mr. Payne opened the disconnect switches at Titusville at about 5:30 P. M. He then waited until the maintainer and his helper returned to their headquarters at about 7:30 P. M. to inform them that he had opened the switches and that they were to be left open until the following day. Inspector Payne did not close the switches at that time, but assigned the work properly to the maintainer.

The disconnect switches in question are safety devices located in the 4,400 volt signal transmission line for the purpose of opening and closing it.

The Carrier first states that this action was taken by Inspector Payne as a consequence of an emergency, and did not give basis to a claim. Carrier

Department. Manifestly, therefore, he performed a service incidental to his position which did not constitute a violation of the Signalmen's Agreement as alleged by the Employees, or as stated by the Third Division in resolving a comparable dispute in Award 6221 involving the work of a Signal Supervisor:

"The Board from the evidence must conclude that the Supervisor in this case made only that inspection which was required and inherent in his position as a Supervisor . . .

In Award 4946 this Board stated: 'The yardmaster had the right * * * to examine for the purpose of determining if claimant should be called to make repairs.'"

For the reasons stated, the claim is without merit and should be denied.

OPINION OF BOARD: Except for different Claimants, location and the fact that an Inspector opened the transmission line disconnect switch rather than close it, the essential facts of this dispute are similar to the facts presented to us in Award 13944 for the same agreement, parties, date and circumstance are involved here too.

We find there is no significant difference between the instant factual situation and the one presented in Award 13944. We are of the opinion that under the facts presented, the Inspector did not violate the agreement when he opened the transmission line disconnect switch at Titusville, Florida because such act, at the time, was a part of a reasonable test of that line. We will deny this claim and also admonish Carrier to quote correctly from our opinions in the future.

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 29th day of October 1965.