

Award No. 14037
Docket No. SG-14267

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David Dolnick, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ALTON AND SOUTHERN RAILROAD

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Alton and Southern Railroad that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when, beginning on or about February 19, 1962, it permitted and/or condoned the action of signal employes of another railroad installing, and subsequently maintaining, flasher signals at the intersection of Highway 37 and the GM&O RR in Cahokia, Illinois, which is between a three-position operating distant signal and a home signal at an interlocking plant that has been maintained by Alton & Southern signal forces for approximately thirty years.

(b) The Carrier should now be required to allow additional compensation to its signal employes because of this violation, as follows:

Signalman Paul Bisso,	288 hours at \$2.67 per hour.
Assistant Signalman James Smith,	230 hours at 2.44 per hour.
Signal Helper Frank Bowen,	208 hours at 2.34 per hour.

The above is for the construction work.

Signal Maintainer D. B. Siatos and Assistant Signal Maintainer Howard Woodward five (5) hours a month for the normal maintenance and to include all calls, overtime, reconstruction, or alterations performed by GM&O employes or outside contractors on a continuing basis until all maintenance is returned to and assigned to Signal employes on the Alton & Southern Railroad.

EMPLOYES' STATEMENT OF FACTS: There is an interlocking plant where the Alton and Southern Railroad (A&S) and the Gulf, Mobile and Ohio Railroad (GM&O) intersect at Cahokia, Illinois. This is a relatively simple plant, where one A&S track crosses one GM&O track (some interlocking plants embrace numerous tracks, switches and crossovers which permit all railroads using that plant to travel a number of different routes through it).

and 8182 define the limits of an interlocking plant as being that portion of track lying within the home signals of both roads. They go further to state that the maintenance of an automatic interlocker system, lying between the distant and home signals is the work of the employes of the railroad on whose property such circuitry is located.

For the foregoing reasons the claims of the employes in this dispute are wholly without merit and we respectfully request your Board to deny them.

(Exhibits not reproduced.)

OPINION OF BOARD: An interlocking signal plant exists where the Alton and Southern Railroad and the Gulf, Mobile and Ohio Railroad intersect at Cahokia, Illinois. It is considered a relatively simple plant; one A&S track crosses one GM&O track. The automatic interlocking system was installed and put into service on June 30, 1930. From that day until August 1, 1930, the plant was maintained by Signalmen employed by Gulf, Mobile and Ohio Railroad. Since August 1, 1930, this interlocking signal plant, by agreement between the two companies, has been continuously and exclusively maintained by Signalmen employed by this Carrier.

Sometime immediately prior to February 22, 1962, Signalmen employed by the GM&O Railroad began installing Flasher Signals at a road crossing on GM&O property. Petitioner protested first by telephone on February 22 and then in a letter dated March 26, 1962. In a letter dated April 26, 1962, Carrier admitted that "the installation of the highway crossing flasher signals was performed by GM&O employees." Continuing, Carrier said:

"It was performed by GM&O employes because it was a GM&O project, on GM&O property. It was installed for the sole purpose of protecting highway traffic crossing the GM&O main line at grade. The installation of this crossing flasher signal was not installed for the purpose of activating any portion of the interlocker system at the A&S-GM&O crossing. It has nothing to do with the movement of either GM&O or A&S trains through the interlocker."

In another letter under date of July 19, 1962, Carrier said:

"This project was initiated through a directive of the Illinois Commerce Commission for the sole purpose of safeguarding vehicular, pedestrian, and train traffic across County Highway No. 37 and tracks of the Gulf, Mobile & Ohio Railroad.

The interlocking plant has been modified to permit the installation of the highway flasher signals, however said interlocking plant continues at this time to be maintained by our signal forces. The work of installing and maintaining these flasher signals is the sole responsibility of Gulf, Mobile and Ohio Railroad." (Emphasis ours.)

The flasher lights are on GM&O property. Employes of GM&O are entitled to install and maintain all equipment which is independent of and which is not part of the interlocking system. The Awards of this Board have consistently held that the Scope Rule of an Agreement of one Carrier does not cover the same work on the property of another Carrier. Claimants had no right to any work on the flasher signals and their appurtenances, except the circuits and mechanisms which are used in common by both the crossing signals and the interlocking plant.

The record shows that prior to the installation of these flashing signals, there were two track circuits between the distant and home signals and they were referred to as A2T and B2T. In interpreting and applying their own Agreement, the Carriers placed these circuits within the interlocking plant and assigned the maintenance thereof to A&S signal forces. With the installation of the crossing signals, track circuit B2T (which was approximately 3,800 feet in length and south of A2T) was converted into three track circuits numbered A2T1, A2T2 and A2T3. This conversion of track circuits was work on the interlocking plant. This is admitted by the Carrier. In its Ex Parte Submission, it says that "the only work that was transferred from Alton and Southern employes to Gulf, Mobile and Ohio employes was a portion of one track circuit and its battery charging circuits and insulated joints, involving some 3,000 feet of track between the home and distant signals on the Gulf, Mobile and Ohio mainline."

Carrier has not attempted to justify this transfer of work on the basis of its own interpretation of the Agreement between the two Carriers, but rather has asserted that the decision of this Board in Award 3904 defines "limits regarding employe's right to maintain interlocking systems . . .," and that Award 3904 laid down an absolute rule that "between the distant and home signals of the interlocker was not an integral part of the interlocker."

Carrier misconceives the ruling of this Board in Award 3904. We there ruled: "The question posed is whether the distant operating signals and the signal lines and track circuits between them and the interlocking home signals were a part of the interlocking plant within the meaning of the contract . . ." Thus, the Board simply held the contract between the Carriers in that case to be controlling. We further held that "... the parties themselves appear to have had the same view of the matter . . ." as the Employes in that case. The Board was thus governed in that case by the provisions of the Agreement between the Carriers as the same had been interpreted by the Carriers themselves. Applying that rule in the case before us, we must hold that the Claimants are entitled to work on the interlocking plant.

The installation of additional circuits with their attendant mechanisms within and affecting the interlocking plant as an integral part thereof is work which belongs to Signalmen employed by this Carrier. The same is true of the maintenance of all such circuits and related mechanisms. Within these limits, Claim (a) should be sustained.

Claimants, Paul Bisso, James Smith and Frank Bowen are entitled to be compensated at their respective hourly rates for the hours spent in the construction work we have found belonged to Carrier's Signalmen. The claim for five (5) hours a month for normal maintenance plus "all calls, overtime, reconstruction, or alterations" is indefinite and inconclusive. The record shows that there had been no maintenance calls since the system was installed. A claim for five (5) hours a month for normal maintenance is a conjecture and is not sustained by evidence. D. B. Siatos is entitled to compensation for actual maintenance performed by GM&O employes to the circuits and mechanisms which we have found to be an integral part of the interlocking plant since February 19, 1962. The amount due, if any, can be ascertained from the records of the Carrier. Within these limits, claim (b) should be sustained.

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 violated the Agreement to the extent that all construction and insulating work within the interlocking plant should have been performed by Claimants, Paul Bisso, James Smith and Frank Bowen, who are Signalmen of this Carrier. That they should be compensated for such work hours at their respective hourly rates. That Signalmen of this Carrier are entitled to maintenance work done within the interlocking plant. That there is no conclusive evidence in the record to show what, if any, maintenance, reconstruction, or alterations had been done by GM&O and other employees to the interlocking plant since February 19, 1962. If any compensation is due to Claimants D. B. Siatos and Harold Woodward it can best be ascertained from the records of the Carrier which shall be made available to the Claimants and the Petitioner. If, after checking such records, any compensation is due to these Claimants, Carrier shall pay it to them.

AWARD

Claims (a) and (b) are sustained within the limits set out in the Opinion and the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of December 1965.

STATEMENT OF CARRIER MEMBERS', AWARD 14037 DOCKET SG-14267 (Referee Dolnick)

The award is correct in holding that in cases such as this, the contract between the Carriers is entirely controlling and rights of employees to work are dependent thereon. It naturally follows that the interpretation which the Carriers place on their own Agreement is also controlling.

The Carriers apparently proceeded in good faith on the premise that this Board might follow erroneous Award 8182 which misapplied the Board's ruling in Award 3904. In view of erroneous Award 8182, which in effect is overruled by this award, plus the additional fact that there is no showing any individual claimant sustained any loss of time, that portion of the award which allows damages is erroneous and unenforceable.

G. L. Naylor
R. A. DeRossett
W. F. Euker
C. H. Manoogian
W. M. Roberts