

Award No. 14100
Docket No. SG-13943

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**JOINT TEXAS DIVISION OF
CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY**

**FORT WORTH AND DENVER RAILWAY COMPANY
(Burlington-Rock Island Railroad Company)**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Joint Texas Division of the Chicago, Rock Island and Pacific Railroad Company, Fort Worth and Denver Railway Company, that:

(a) The Carrier violated the current Signalmen's Agreement when on September 15, 18, 19, 20, 21, 22, 25, 26, 27, 28 and 29, 1961, and on October 2, 3, 4, 5 and 6, 1961, it used two Chicago, Rock Island and Pacific Communications Department Employees to assist its signal employees to renew approximately 50 poles on the Joint Texas Division. The Carrier should have used Chicago, Rock Island and Pacific Signal Department Employees under the direction of a Chicago, Rock Island and Pacific Signal Foreman to perform this work.

(b) The Carrier now be required to compensate Signal Foreman R. G. Fuller, Signal Gang No. 4, for an additional 16 days' pay at his monthly rate of pay account of the violation outlined in Paragraph (a). This claim is made in behalf of the Signal Foreman only as the Carrier has already paid two Signalmen from Gang No. 4 for an amount of time equal to that spent by the Communications Department Employees performing the disputed work.

[Carrier's File: Jt. SG-3]

EMPLOYEES' STATEMENT OF FACTS: On the dates outlined in our Statement of Claim, the Joint Texas Division desired assistance of Rock Island Employees to help set approximately 50 poles. Current Agreements between the Carrier and Brotherhood provide that when the Joint Texas Division finds it necessary to use other than its own employees for signal and communication work, they will be drawn from the Signal Department of

tion of the Petitioners. Furthermore, full restitution has already been made for the alleged violation, and the Carrier respectfully requests the Board to deny this claim in its entirety.

(Exhibits not reproduced.)

OPINION OF BOARD: Control of the operation of the Joint Texas Division of the Chicago, Rock Island and Pacific-Fort Worth and Denver Railway Company was at the time of the performance of the involved work in the hands of the Chicago, Rock Island and Pacific. The involved work was the unloading and renewing of 50 communications poles between Mile Posts 58 and 87 on the Joint Texas Division. The work was performed by two signal maintainers, employees of the Joint Texas Division, one of whom was in charge of the project, and by two employees borrowed from the Communications Department of the Rock Island, and represented by a labor Organization other than Brotherhood.

In the original claim, Brotherhood claimed that Foreman of Signal Gang No. 4, R. G. Fuller and the two senior signalmen on Gang No. 4, Egger and McKeever, should be paid for the time spent on the involved work. Carrier acknowledges that the two employees should not have been borrowed from the Communications Department, but should have been borrowed from the Signal Department of the Chicago, Rock Island and Pacific; Carrier paid the claims made in behalf of Egger and McKeever; but Carrier did not agree that supervision of the operation by the Joint Texas Division's signal maintainer was improper, and declined to pay the claim made for Foreman Fuller. Brotherhood's claim that the work which should have been performed by the two Chicago, Rock Island and Pacific signal employees should have been under the direction of a Chicago, Rock Island and Pacific signal foreman and that Fuller be paid remains for our disposition.

Brotherhood argues that the borrowing of the employees from Chicago, Rock Island and Pacific was governed by Appendix "C" of the Agreement between the parties. Carrier argues that Appendix "B" is the applicable provision.

Brotherhood's argument is that the two signal employees who should have performed the work were a "signal gang" within the meaning of Appendix "C." To support this contention Brotherhood points to the "Note" in Rule 5 of its agreement with the Rock Island:

"SIGNALMAN, SIGNAL MAINTAINER.

An employe assigned to perform work generally recognized as signal work as outlined in this agreement shall be classified as a signalman or signal maintainer.

NOTE: Signal maintainer referred to in Rule 5 shall mean an employe assigned to a specific territory and/or plants.
A signalman shall mean an employe working in a gang or shop."

Brotherhood's argument is that since the two signal employees who should have been borrowed would not have been working in a shop they would have to have been working as a "signal gang." A normal reading of the "Note" to Rule 5 does not indicate that it was intended to be an absolute definition of "signal gang", but, rather, that it provided a means for dis-

tinguishing the title "Signal Maintainer" from the title "Signalman"; without strong evidence that such was intended, we cannot read into the language of the "Note" a requirement that whenever a signalman or signalmen were borrowed by the Texas Division from the Chicago, Rock Island and Pacific for other than shop work he or they constituted a gang. No such evidence is in the record.

Carrier contended that the involved work was not such as belonged exclusively to signalmen and that it might properly also be performed by signal maintainers. Brotherhood did not successfully rebut this nor did Brotherhood succeed in rebutting Carrier's contention that Appendix "B" rather than Appendix "C" governed the borrowing of the employees. At the outset Brotherhood's case depends on establishing that Appendix "C" was controlling, and Brotherhood failed to prove its contention in that respect. 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 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 24th day of January 1966.