



Award No. 15005

Docket No. SG-14486

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

READING COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Reading Company that:

(a) The Company arbitrarily violated the current Signalmen's Agreement, as amended, particularly the Scope, when work on electric switch heaters at Philadelphia, Pa., was unilaterally assigned to employees not covered by the Signalmen's Agreement.

(b) As a result of Electric Department correcting grounded heating unit on east switch of #29 crossover at Wayne Junction, on October 25, 1962, the Carrier should now be required to compensate, in the amount shown, the following:

R. Lodholz	Signal Maintainer	Wayne Jct.	\$2.8178 per hr.	8 hrs.	pro rata
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(c) As a result of Electric Department testing heaters on October 26, 1962, at Race Street Interlocking preparing for winter season, the Carrier should now be required to compensate, in the amounts shown, the following:

R. Belding	Leading Signalman	Wayne Jct.	\$2.8128 per hr.	8 hrs.	pro rata
J. Cornell	Signalman	Wayne Jct.	\$2.7528 per hr.	8 hrs.	pro rata
S. Dalessandro	Asst. Signalman	Wayne Jct.	\$2.6448 per hr.	8 hrs.	pro rata

(d) As a result of Electric Department replacing defective heater unit on #47 moveable point frog at Wayne Junction on October 27, 1962, the Carrier should now be required to compensate, in the amounts shown, the following:

A. Leach	Signal Foreman	Wayne Jct.	\$604.70 per mo.	8 hrs.	pun.
F. Scheese	Signalman	Wayne Jct.	\$2.7528 per hr.	8 hrs.	pun.
A. Damico	Signalman	Wayne Jct.	\$2.7528 per hr.	8 hrs.	pun.
A. Domarasky	Signal Helper	Wayne Jct.	\$2.4528 per hr.	8 hrs.	pun.
R. Lodholz	Signal Maintainer	Wayne Jct.	\$2.8178 per hr.	8 hrs.	p. r.

(e) As a result of Electrical Department testing heater units at Wayne Junction on November 8, 1962, preparing for winter season, the Carrier should now be required to compensate, in the amount shown, the following:

R. Lodholz	Signal Maintainer	Wayne Jct.	\$2.8178 per hr.	2.5 hrs.	p. r.
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(Carrier's File: 4825.23; 4825.27; 4825.28)

occurred in the unit substation at Wayne Junction, which substation is occupied by and under the jurisdiction of employees of the Electrical Department.

On October 26, 1962, Electrical Department Employees made tests for electrical ground on switch heaters at Race Street and on October 27, 1962 they replaced heater unit on Switch #47 at Wayne Junction. There is no record of Electrical Department Employees making any tests on heater units at Wayne Junction on November 8, 1962, as alleged.

The claim here before the Board, presented and progressed by the Signalmen, is for payment of 8 hours at pro rata rate to employees named in claims for October 25, 26, 27, 1962 and payment of 8 hours at the punitive rate to employees set forth in claim for November 8, 1962, based on the contention that work allegedly performed by electrical workers as described in their claim was in violation of the scope rule of the Signalmen's agreement, which claim and contention Carrier denied.

Agreement between Reading Company and Brotherhood of Railroad Signalmen, effective August 1, 1953, is on file with the Board and is, by reference, made a part of this submission. (Exhibits not reproduced).

OPINION OF BOARD: The parties do not agree on all facts concerning the work in question. On October 26, 1962, Carrier's Electrical Department performed work which Carrier alleges corrected a resistor imbalance within the unit substation at Wayne Junction, but which Brotherhood maintains was the correction of a grounded heating unit. On November 8, 1962, Brotherhood claims the Electrical Department employees tested switch heaters at Wayne Junction in preparation for the winter, but Carrier states it has no record of the performance of this work. The parties do agree that on October 26, 1962, the Electrical Department made tests on switch heaters at Race Street interlocking and that on October 27, 1962, it replaced a defective heater unit on switch No. 47 at Wayne Junction.

The Brotherhood takes the position that Carrier violated the Agreement when it assigned the work on these four days to Electrical Department employees who are not covered by the Signalmen's Agreement. It maintains that this work was historically performed by signalmen and it generally recognized as signal work which belongs to them under the Scope of the Agreement.

Carrier's denial emphasizes that the Scope Rule of the Signalmen's Agreement is of the specific type and that Paragraph (d) of this rule expressly restricts the work signalmen may perform on electrical switch heaters operated by remote control. It asserts that the work in question did not come under the category of remote control operation and therefore is not signalmen's work. It also states that the claim lacks factual information as to the work performed.

The record discloses that Carrier on the property did not dispute the nature of the work performed on October 25, nor did it deny that testing on heater units at Wayne Junction was performed on November 8. Since these questions were not raised on the property, the Board regards them as new issues and cannot consider them now.

The central issue in this dispute is whether or not Carrier improperly assigned the work to the Electrical Department.

The record reveals that Signal Department employees installed and maintained switch heaters for a period of ten years, one year before the Agreement was revised August 1, 1953, and nine years thereafter. They installed electric switch heaters at Wayne Junction in September, 1952, and subsequent to the revision of the Agreement they installed electric, propane gas, and kerosene-type heaters at a number of locations on three Divisions of Carrier. Eleven of these installations were made on the Philadelphia Division, the location where the alleged violations occurred. The ten years of performance of this work by the signalmen is evidence that the parties generally recognized this work as signal work under the Scope of the Agreement.

With reference to Carrier's argument that Paragraph (d) of the Scope restricts signalmen to work on controlled circuits for remotely controlling operation of electric switch heaters, we find this provision does not prohibit them from performing work generally recognized as signal work. The parties acknowledged by their conduct that the work performed was generally recognized as signal work.

The record gives evidence of a letter of understanding of September 18, 1962, which Carrier relies upon to support its position that the electrical work in connection with the installation and maintenance of electrical switch heaters is work properly within the Scope of the employees of the Electrical Department and was properly assigned to them on the four dates in question. This letter of understanding, however, was arrived at after conference between Carrier and representatives of the International Brotherhood of Electrical Workers. The Brotherhood of Railroad Signalmen was not requested to attend this conference and did not participate in drawing up the understanding. At a later date, in a conference between Carrier and signalmen, Carrier proposed allocation of work in accordance with the letter of understanding it made with the electricians. The signalmen, in conference with Carrier and in subsequent correspondence, stated they were not in agreement with this memorandum of understanding of September 18, 1962, in which it was decided that the electrical work, in connection with the installation and maintenance of track heater equipment would be assigned to and performed by electricians employed in the Electrical Department. Inasmuch as the Signalmen did not acquiesce in the division of work agreed upon by the Electrical Department and Carrier, we do not find this letter of understanding supports the position that the signalmen do not have a claim to the work.

Furthermore, as far back as 1952, the electricians and signalmen worked out an arrangement relative to the installation of electrical switch heaters at Wayne Junction whereby the Electrical Department handled the electrical work to the power lines and the fuses or control switch while the Signal Department were allocated the work from the fuses or control switch to and including the installation of heater units. This allocation applied to maintenance as well as to installation.

For the foregoing reasons, we hold that the Agreement was violated and the claim is 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 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 was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of December 1966.