



Award No. 15562
Docket No. SG-15108

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chesapeake and Ohio Railway (Chesapeake District) that:

(a) The Carrier violated the current Signalmen's Agreement, in particular the Classification Rule 2 and the Bulletin and Assignment Rules 50, 51, and 52, when, on July 29, 1963, it assigned signal employes not under the supervision of a Gang Foreman to perform signal construction work in connection with installation of a spring switch mechanism including the necessary wiring and signals at CS Cabin, Stevens Yard, Kentucky.

(b) The Carrier be required to compensate H. H. Parker, cut-off Signal Foreman, at Signal Foreman's rate. This claim to run from July 29, 1963, until completion of installation referred to in (a) of this claim. [Carrier's File: SG-173]

EMPLOYES' STATEMENT OF FACTS: This dispute is based on Carrier's action of assigning a gang of signal employes, consisting of a Signal Maintainer, Signalman, and Assistant Signalman, not under the supervision of a Gang Foreman, to perform signal construction work in connection with the installation of a spring switch mechanism with associated wiring and signals, at CS Cabin, Stevens Yard, Kentucky, beginning on or about July 29, 1963. The basis of our claim is that a gang of signal employes should be under the supervision of a Gang Foreman, and that Claimant Parker, a cut-off Gang Foreman at the time the disputed work was being performed, should receive Gang Foreman pay from July 29, 1963, until completion of the installation referred to herein.

Mr. Parker's Gang Foreman position was abolished in February, 1963. On July 29, 1963, Carrier issued Bulletin No. G-4-63 (Brotherhood's Exhibit No. 1), advertising one (1) Signalman and one (1) Assistant Signalman position, the incumbents to work with the Signal Maintainer at CS Cabin. The assignment bulletin is Brotherhood's Exhibit No. 2.

This three-man gang worked together in changing a T-21 switch to a spring switch, and performing the necessary signal work connected therewith.

Also cited are rules 50, 51 and 52 dealing with bulletining and awarding positions. It has not been made clear as to just how it is contended these rules were violated, but it is assumed the Employees will argue that if a gang foreman position has been established it would have been advertised and assigned under such rules. This the Carrier does not dispute, but says that rules 50, 51 and 52, as well as Rule 2, do not require establishment of any position. What these rules do say is what will happen if jobs of the various classifications are established — nothing more.

Carrier will reserve this argument for its statement of position, but as a preface thereto the following explanation is in order.

It has been the practice down through the years to put on a signal gang with a foreman and the necessary leading signalmen, signalmen, assistants and helpers when the work justifies. To illustrate, in a major installation of car retarders at Russell, Kentucky, several signal gangs combined to do the construction work. This was a large project, necessitating foremen and leading signalmen to perform the detail supervision inherently necessary in major undertakings.

Contrasted to this is the progression of small projects or those which need not be done quickly so that the use of a signal gang is unnecessary. In such instances the existing force of a signal territory, which is typically a signal maintainer and assistant and/or helper, is assigned the project for completion (if necessary) by a predetermined target date. If the job is more than the regular maintenance force may handle under the circumstances, one or more signalmen, and perhaps assistants, may be put on temporarily or a maintainer from an adjoining territory may be called in. In such instances of small projects it has never been the practice to put on a gang foreman, as such detail supervision is absolutely unnecessary and could add nothing to the expeditious completion of the particular project, the foreman not being a position that works with tools as a mechanic.

Such was the case in the instance at contention here. Installation of the spring switch was more than the maintainer could accomplish quickly and yet maintain the CS Cabin territory. But the job did not necessitate establishment of a signal gang under the supervision of a gang foreman. As a result, the maintainer was temporarily supplemented by two additional positions established to help complete the particular small job. Such handling was completely in line with past practice on this Carrier and no rule can be cited to the contrary.

(Exhibits not reproduced.)

OPINION OF BOARD: Two new positions, a signalman and an assistant signalman, were established by bulletin to work with the signal maintainer assigned to the CS Cabin territory.

Petitioner contends that this arrangement constituted a gang and should have been under the direction of a foreman.

Carrier contends that it did not violate the Agreement and that the arrangement was in keeping with past practice.

The Employees object to the past practice argument on the grounds that it was not made on the property. We agree and will sustain the Employees' objection. Award 8324.

Rule 2 relied on by the Employee defines a Gang Foreman; however, it does not, either expressly or by implication, provide when a foreman must be put on. We are not empowered to write rules for either party.

Rules 50, 51 and 52, also relied on by Petitioner, are not determinative of the basic issue.

In its rebuttal statement Petitioner contends that in any event the maintainer assigned to the CS Cabin territory should have been made a leading maintainer. This too is new argument and will not be considered.

In conclusion the Employee have failed to establish a violation of the Agreement as claimed and the claim is denied.

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 Employee involved in this dispute are respectively Carrier and Employee 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 12th day of May 1967.