

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Harr, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
WESTERN MARYLAND RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Western Maryland Railway Company that:

(a) The Carrier violated the Signalmen's Agreement when, on or about July 23, 1963, a factory wired relay instrument case was installed at a crossing protection location at Beryl, West Virginia.

(b) The Signalmen who installed the case be allowed an amount of time equal to that consumed by other persons not covered or classified under the Western Maryland Signalmen's Agreement in performing the wiring of the instrument case at issue.

[Carrier's File: B. R. S. A. Case No. 2 — 1963]

EMPLOYES' STATEMENT OF FACTS: This dispute arose when Carrier's signal forces installed a relay instrument case that was fitted and wired for highway crossing protection devices at Beryl, West Virginia. The persons who wired this case hold no seniority or other rights under the Signalmen's Agreement in effect on this railroad.

As the Scope of the Signalmen's Agreement specifically covers the work of constructing, installing, inspecting, testing, maintenance, repair, and painting of electrically controlled highway crossing protection devices, and the mounting and wiring of signal apparatus in a field instrument case or housing, the Brotherhood's Local Chairman presented a claim on behalf of the signal employees who installed the case, for an amount of time equal to that spent by the outsiders in wiring it.

The relay instrument case in question was installed on or about July 23, 1963. The Local Chairman initiated the claim by presenting it to the Signal and Communication Supervisor on September 1, 1963. The Local Chairman's claim is Brotherhood's Exhibit No. 1. The Supervisor's denial, dated September 6, 1963, is Brotherhood's Exhibit No. 2.

On September 18, 1963, the Brotherhood's General Chairman presented an appeal (Brotherhood's Exhibit No. 3) to the Signal and Communication

Engineer, whose denial (Brotherhood's Exhibit No. 4) is dated October 28 1963.

The General Chairman presented an appeal to the Chief Engineer on December 13, 1963 (Brotherhood's Exhibit No. 5). The Chief Engineer's denial, dated January 9, 1964, is Brotherhood's Exhibit No. 6.

Under date of February 12, 1964, the General Chairman presented an appeal to the Manager of Labor Relations, Mr. F. B. Plummer. Mr. Plummer wrote his letter of denial on March 30, 1964, and the General Chairman replied thereto on June 4, 1964. The exchange of correspondence at this stage is Brotherhood's Exhibit Nos. 7, 8 and 9.

As indicated by the foregoing, this dispute has been handled in the usual and proper manner on the property, up to and including the highest officer of the Carrier designated to handle such disputes, without receiving a satisfactory settlement.

The Signalmen's Agreement in effect on this property, bearing an effective date of December 16, 1956, is by reference made a part of the record in this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Early in 1963 the State of West Virginia requested the Western Maryland Railway Company to install crossing protection at a road leading across the Western Maryland tracks to a new plant building of the West Virginia Pulp and Paper Company at Beryl, West Virginia. The installation cost was borne by the State.

The company purchased a standard factory assembled highway crossing protection package from the Union Switch & Signal Division of the Westinghouse Air Brake Company. The package consisted of a three-foot instrument case with shelf mounted relays and other associated apparatus, and two complete flashing light signals. Following delivery of the package, employees from the Signalmen's craft made the installation and performed other necessary work to place the equipment in operation.

The Brotherhood of Railroad Signalmen is protesting the purchase of the assembled package, contending that the railway company should have prepared the necessary plans and specifications, requisitioned the component parts so they could be ordered from the manufacturers, and then have Western Maryland employees assemble and install the instruments and wire the case after all components became available.

OPINION OF BOARD: This claim arose when Carrier purchased a factory assembled highway crossing protection package from the Union Switch and Signal Division of Westinghouse Air Brake Company. After delivery of the package, Signalmen made the installation and performed what work was necessary to place the equipment in operation.

The Employees protest the purchase of the assembled package, claiming the Carrier should have purchased the component parts and had them assembled by Signal Employees.

The Employees rely upon the Scope Rule of the effective Agreement to support their position.

The Scope Rule reads in part:

"This agreement covers rates of pay, hours of service and working conditions of all employees classified in Article I of this agreement, either in the shop or in the field, engaged in the work of construction, installation, inspecting, testing, maintenance, repair, and painting of:

* * * * *

(c). Highway crossing protection devices electrically controlled, but excluding traffic lights where local regulations would require installation and maintenance by other than Railway Company employees.

* * * * *

(1). The mounting and wiring of signal apparatus in a field instrument case or housing, but excluding such assemblies as can be universally used and be normally furnished by a manufacturer without the Carrier supplying specific plans.

* * * * *

The equipment in question could be universally used at crossings of the type involved here. We therefore find that the Carrier has not violated the Scope Rule of the Agreement.

The Signal Employees did not obtain jurisdiction over the equipment until it was delivered to the Carrier.

Award 12553 (West) states:

"We have reviewed Awards 4662, 5044, 7965, 9604, 9918, 11438 and 11792, which deny claims that the Carriers involved violated the controlling Agreements when purchasing factory-wired relay houses. We do not, however, find that any of those cases involved circumstances found in Awards 4713 and 6664, supra. It appears to be the consensus of the awards that seniority rights to work does not attach until the material or equipment upon which the work is to be performed is once delivered to the Carrier (Award 6664). We find that these circumstances do not exist in this claim."

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 19th day of May 1967.