

Award No. 15917
Docket No. SG-14750

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company that:

(a) The Carrier violated the Signalmen's Agreement (Rule 1—Scope) when work was performed by personnel not covered by the Signalmen's Agreement.

(b) H. L. Morris, the Lead Signal Maintainer covering the territory on which these infractions of the Signalmen's Agreement occurred, be compensated at Signal Tester's rates—one day's pay for July 3, 1962 and one day's pay for July 6, 1962.

[Carrier's File: G-304-14; G-304]

EMPLOYEES' STATEMENT OF FACTS: On July 3 and 6, 1962, Assistant Signal Supervisors J. D. Atchison and M. M. Booker tested relays and signal apparatus on the M. & N. O. Division between Bay Minette and Perdido, Alabama, where signal work preparatory to taking out a passing track was in progress.

The work which the supervisors performed on those days is included in Rule 1. SCOPE of the Signalmen's Agreement, and employees who perform this work are classified in Rule 2. SIGNAL TESTER.

As a result of the violation, Local Chairman W. M. Noonan initiated a claim on behalf of Leading Signal Maintainer H. L. Morris for a day's pay at the Signal Tester's rate for each of the two days on which the violation occurred. Leading Signal Maintainer Morris is capable and qualified to perform this type of work; in fact, he was the person who, shortly before the date of the first violation, had shown the supervisors how to use the test equipment and make the tests on the signal relays and apparatus. A short time before this violation occurred (about 3 weeks) Assistant Signal Supervisor Booker had taken Leading Signal Maintainer Morris to Gulfport, Mississippi, for the purpose of having him make the necessary tests to relays and apparatus at a new highway crossing signal installation. Gulfport is approximately 72 miles from Mobile, Alabama, where Claimant's headquarters are located.

"LOUISVILLE AND NASHVILLE RAILROAD COMPANY
Office of Director of Personnel

Louisville, Kentucky
June 6, 1963
G-304-14
G-304

Mr. T. J. Bass, General Chairman
Brotherhood of Railroad Signalmen
Falmouth, Kentucky

Dear Sir:

Please be referred to your letter of January 25, 1963, appealing claim in favor of Lead Signal Maintainer H. L. Morris, Mobile, for one day's pay, July 3 and July 6, at tester's rate, based on the contention that Assistant Signal Supervisors J. D. Atcheson and M. M. Booker violated the scope and Rule 2 of the signal employees' agreement, when they tested signal relays and signal apparatus.

This claim was discussed during conference in this office May 31, at which time your attention was called to the fact that Claimant Morris was assigned as leading signal maintainer at Mobile to maintain a C. T. C. machine at that point and signal facilities from end of a double track at Commerce Street to Canal Street, Mobile. Mobile is Mile Post 667, whereas the relays involved in this claim were located between Mile Posts 631 and 643, between Perdido and Bay Minette, not on the territory of Claimant's assignment.

Your attention was also called to the fact that Signal Maintainer Chapman and Helper Amos accompanied the assistant supervisors and witnessed the tests. Neither Maintainer Chapman, Helper Amos, nor Lead Maintainer Morris, according to our information, were qualified to make the tests involved. Your attention was also called to the fact that Claimant Morris worked his regular assignment on the dates in question.

As stated to you during conference, we see no basis whatever for any claim in behalf of Lead Maintainer Morris and same is respectfully declined.

Yours truly,

/s/ W. S. Scholl
Dir. of Personnel"

The agreement involved became effective February 16, 1949, and has been revised to October 1, 1950. Copies of the agreement are on file with the Third Division.

OPINION OF BOARD: We are initially confronted with a procedural deficiency alleged in behalf of the Organization that Carrier's letter of denial of the claim, reading:

"I do not agree with your decision that the Carrier violated the Signalmen's Agreement by having work performed by personnel not covered by said Agreement,"

meets the requirement that Carrier, in denying a claim, "must give the reasons therefor."

The statement that Carrier "does not agree" it had violated the Agreement is not sufficiently responsive to the requirement that it must apprise the Organization of the reasons for denial.

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 violated.

AWARD

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1967.