

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

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

CLAIM NO. 1

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 51(a), when, about August 1, 1964, it required and/or permitted the System Signal Construction Store Room Gang to wire a 4-foot 11-inch relay case to be used on the Birmingham Division in connection with the repair and relocation of Signal 2L at the AGS crossing at Attala, Alabama.

(b) Carrier be required to compensate the following employees of Birmingham Division Signal Gang No. 13 for a total of fifty-five (55) hours to be divided equally among them at their respective rates of pay:

Foreman - H. B. Williams

Signalmen - C. K. Armstrong, Jr., C. F. Wynn, C. R. Dennis

Assistant Signalman - J. D. Gore

[Carrier's File: G-304-12, G-304]

CLAIM NO. 2

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 51(a), when during October, 1964, it required and/or permitted the System Signal Construction Store Room Gang to mount an electric switch machine on ties; this machine was mounted for use in extending and relocating the North end of the passing track at Deatsville, Alabama, on the Birmingham Division.

(b) Carrier be required to compensate the following employees of Birmingham Division Signal Gang No. 13 for a total of eight (8) hours to be divided equally among them at their respective rates of pay:

Foreman -- H. B. Williams

Signalmen -- C. K. Armstrong, Jr., C. F. Wynn, C. R. Dennis

Assistant Signalman -- J. D. Gore

[Carrier's File: G-304-12, G-304]

EMPLOYEES' STATEMENT OF FACTS: This is a combination of two claims which involve the same issue, but were handled separately on the property. Exchange of correspondence on Claim No. 1 is attached hereto as Brotherhood's Exhibit Nos. 1-A through 1-I. Claim No. 2 is covered by Exhibit Nos. 2-A through 2-I.

There are ten (10) separate seniority districts on this railroad. Under Rule 32 of the Signalmen's Agreement, each signal employe holds seniority rights on one seniority district only. Under a special rule covering System Gangs (Rule 51), a System Gang may work on the entire system though such work is confined to **construction work on new installations** -- except for necessary maintenance changes in connection with a construction project, and in emergency cases such as derailments, floods, snow blockades, fires and slides. (None of these exceptions applies to these claims.)

Claim No. 1 arose after Carrier assigned and/or permitted a System Gang to wire a relay case for use in connection with the repair and relocation of an **existing** signal. Claim No. 2 arose after Carrier similarly assigned a System Gang to mount an electric switch machine that was used in extending and relocating the end of an **existing** passing track. Both claims are based on our contention that both jobs were district jobs that should have been done by district employes; that such work does not constitute construction work on new installations.

As indicated by the correspondence attached hereto, these claims were 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.

There is an agreement in effect between the parties to this dispute, bearing an effective date of February 16, 1949, as amended, which is by reference made a part of the record in this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS:

CLAIM NO. 1

On or about August 1, 1964, System Signal Construction Storeroom employes wired a signal case for installation on the Birmingham Division.

A claim was filed on behalf of members of Division Signal Gang No. 13, located on the Birmingham Division, based on the contention that the provisions of Rule 51(a) of the Signalmen's Agreement had been violated.

The signal case was for a completely new signal installation, and the claim was declined.

sary maintenance changes in connection with the construction project and in emergency cases.

In the case before us now, the System Forces have been finished for some time with the CTC project on the Birmingham Division and the Birmingham Division employees are entitled to the work involved in the dispute.

You further decline the claim because the members of the Birmingham Division gang, named as claimants, suffered no monetary loss.

Surely you are not suggesting the management of the Railroad is or should be entitled to violate the contract between the Brotherhood of Railroad Signalmen and themselves with impunity.

This will inform you your decision is not acceptable to the General Committee, and the claim will be appealed.

Very truly yours,

/s/ J. T. Bass
General Chairman
Signalmen

cc: File
T. H. Gregg, VP
Grand Lodge"

* * * * *

The agreement involved became effective February 16, 1949, and has been revised to October 1, 1950. A copy is on file with the Third Division and is by reference made a part of this submission.

OPINION OF BOARD: On or about August 1, 1964, the System Signal Construction Store Room Gang wired a 4-foot 11-inch case to be used on the Birmingham Division. During October, 1964, the System Signal Construction Gang mounted a switch machine with tie plates which was then furnished to the Division Gang for installation at Deatsville, Alabama.

The Brotherhood claims that Carrier violated the Agreement, particularly Rule 51(a), when it permitted this work to be performed by the System Signal Construction Store Room Gang. It takes the position that the System Gang performed Division work since it was not work on new installations. It maintains that the relay case was wired to repair and relocate a signal, and was not a new construction. It also contends that since the switch machine was used in connection with the extension and relocation of tracks, that work was not construction on new installations.

Carrier denies the claims on the grounds that the work was in connection with construction on new installations and, therefore, under Rule 51(a), was properly assigned to System Gangs. Moreover, it maintains that such work in the past had been performed by Signal System employees.

The central question in this dispute is whether the work performed constitutes construction on new installations. If the work was on new in-

stallations, System Gangs could properly be assigned to perform it under Rule 51(a).

The relay case, the subject in Claim 1, was for a signal installation adjacent to Southern Railway, the Attala Interlocking. The switch machine referred to in Claim 2 was used in connection with the extension of passing track at Deatsville. In both installations the System Gang performed the work of completing the units before installation by the Division Gangs. The record shows that in the past Signal System Construction forces performed this type of work and that it was regarded as construction on new installations. There is not clear and convincing evidence to support Brotherhood's contention that the construction work was not on new installations.

Although Rule 51(a) states, "System Gangs will be confined to construction work on new installations except . . .", this rule does not reserve all new signal construction work to Signal Gangs and, therefore, the Division Gang could install the completed unit at the locations without violating the Agreement.

Inasmuch as the work was on new installations, Rule 51(a) was not violated. We hold that the claims are without merit.

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 30th day of November 1967.