

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY—EASTERN LINES**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka and Santa Fe Railway Company that:

(a) Carrier violated and continues to violate Section 6 (b) of Article 1, and Section 1 of Article V of the current Signalmen's Agreement when it failed to apply the C.T.C. Signal Maintainer's rate of pay to the Florence, Kansas, territory on [May 27, 1965] held by Signal Maintainer M. C. Hinde.

(b) Signal Maintainer M. C. Hinde be paid the C.T.C. Signal Maintainer's rate of pay commencing sixty (60) days prior to the date of this claim.

[Carrier's File: 132-128-18]

EMPLOYES' STATEMENT OF FACTS: This is a claim for the CTC Signal Maintainer rate of pay for the Signal Maintainer at Florence, Kansas, commencing sixty (60) days prior to May 27, 1965. It is based on our contention the Florence signal maintenance territory includes part of a continuous CTC installation which entitles the Florence Signal Maintainer to be classified as a CTC Signal Maintainer in accordance with Section 6 (b) of Article 1 of the Signalmen's Agreement in effect at the time the dispute arose, and to be paid the CTC Signal Maintainer rate of pay in accordance with Section 1 of Article V of that agreement. It is also based on our contention the issue is identical to that involved in Docket SG-12545, wherein the Board sustained our claim (Award No. 13036).

The instant claim was initiated by the Brotherhood's Local Chairman under date of May 27, 1965, with the claim for compensation to be retroactive sixty (60) days prior to that date. It was subsequently 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. Pertinent correspondence on the property is attached hereto as Brotherhood's Exhibit Nos. 1 through 7.

The Signalmen's Agreement effective October 1, 1953, as amended, is by reference made a part of the record in this dispute.

Maintainer M. C. Hinde at Florence, Kansas commencing 60 days prior to November 3, 1965.

Without reviewing the facts, other than to state that the occurrence on which it is based took place on October 22, 1959, it will suffice to state that your appeal claim is declined for the reasons stated by the General Manager in his decision of October 28, 1965, which are hereby reaffirmed, and in which connection your attention is also directed to:

(1) Third Division Awards Nos. 8745, 9320, 9686, 10352, 10532, 11167 and others which support the first of the reasons that were advanced by the General Manager, and

(2) Third Division Awards Nos. 6804, 8064, 10329 and others, which serve to support the second of the reasons that were advanced by the General Manager.

Yours truly,

(Signed) O. M. Ramsey"

OPINION OF BOARD: First we must deal with a procedural question raised by Carrier during handling on the property. Carrier asserts and it is not refuted by the Employees that except for a change in date this Claim is the same as one handled through the several stages on the property and eventually denied by the top officer on July 28, 1960, with no appeal therefrom being taken by the Employees.

Article V, 1(c) of the August 21, 1954, National Agreement provides that:

"* * * All claims or grievances involved in a decision by the highest designated officer shall be barred unless within 9 months from the date of said officer's decision proceedings are instituted by the employee or his duly authorized representative before the appropriate division of the National Railroad Adjustment or a system, group or regional board of adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. * * *"

In the absence of evidence of further action by the Employees following the July 28, 1960, denial, the claim became barred and is not open to refiling under Section 1 (c) of Article V of the August 21, 1954, National Agreement Award 10453.

We will dismiss 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 respectfully 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 Claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April 1968.