

Award No. 16698
Docket No. SG-17411

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LEHIGH VALLEY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Lehigh Valley Railroad Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Article I, Sections 2, 3, and 6, when, beginning August 8, 1966, and continuing thereafter, it assigned a Relay Inspector, Leading Testman, and Testman to hook up new signal cables at Newark Interlocking in Newark, New Jersey, on construction work in connection with the "Aldene Plan" at and in the vicinity of Roselle Park, New Jersey.

(b) Carrier be required to pay Signalmen P. Roccaro, A. Beatty, and J. Schmidinger each one day's pay for August 8, 1966, and every succeeding day thereafter on which this violation continues. (If the violation is for 50 days, each Claimant is to be paid 50 days' pay.)

EMPLOYEES' STATEMENT OF FACTS: This dispute stems from Carrier's assigning a Relay Inspector, Leading Signal Testman, and Signal Testman to perform certain Scope work which rightfully belonged to Signal Construction Forces.

Beginning on August 8, 1966, and continuing until December 8, 1966, those employees in the Maintenance Force were required to hook up new cables at Newark Interlocking and perform construction work in the vicinity of Roselle Park, New Jersey, in connection with the "Aldene Plan."

As a result of this assignment of work, Local Chairman J. E. Lightcap entered a claim dated September 27, 1966, on behalf of Signalmen Philip Roccaro, Andrew Beatty, and John Schmidinger requesting they each be paid a day's pay for each such day the Relay Inspector, Leading Signal Testman, and Signal Testman performed construction work on the improvements incident to the "Aldene Plan."

The initial claim is Brotherhood's Exhibit No. 1, and subsequent correspondence relating to the handling of the claim and appeals on the property is Brotherhood's Exhibit Nos. 2 through 8.

OPINION OF BOARD: Carrier raises three procedural objections — 1) that the Employees did not notify the Carrier official rendering the final denial that his decision was not acceptable and 2) and 3) that the Claim presented to the Board is an enlargement of what was handled on the property.

With regard to the first objection, Carrier offers nothing in support of its contention that such rejection is required. The Employees point out in response to the objection that there is nothing in either the working agreement or Article V of the August 21, 1954 Agreement that requires such rejection and that the Second and Third Divisions and the National Disputes Committee have long ago so held. Award 2135 of the Second Division and of the Third Division Awards 8528 and 9942. Also Decision No. 17 of the National Disputes Committee. Carrier's first objection is without merit and is dismissed.

With regard to Carrier's second and third objections we note that all of the places named in part (a) of the Claim were mentioned during handling on the property without any question being raised by Carrier. Carrier's second and third objections come too late and are dismissed.

With regard to the merits, the same basic issue involving these parties has been here previously and denied on the grounds that:

"Neither the agreement nor other evidence of record distinguish between work which may be assigned to maintainers and construction forces. Being thus without a guide, the Board finds that the claim must be denied."

See Awards 12401, 12402, 12403, 12404.

The case now before the Division suffers from the same deficiency and we will, therefore, 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 30th day of October 1968.

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