



Award No. 17098

Docket No. SG-17361

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company that:

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 21(b), when it used Signal Engineer's forces in March 1966 to perform work on the Nebraska Division (between 32nd and 84th Streets near Omaha, Nebraska) without agreement between the General Chairman and the Chief Engineer.
- (b) Carrier be required to compensate Nebraska Division Signal Gang 3111 Employees at their regular rate of pay, as follows:

Foreman W. T. Pyzdek; Assistant Signalmen R. W. Gustafson, C. C. Abegglen, L. B. Hoatson, and W. F. Yates—112 hours each

Signalmen H. H. Boll, H. D. Louis, R. L. Johannes, and D. J. Kohler—140 hours each.

(Carrier's File: A-10425)

EMPLOYES' STATEMENT OF FACTS: Signal employees on this railroad hold district seniority rights, with two of these districts being referred to as Signal Engineer's forces whose right to work, except for emergency situations, is limited to projects involving a minimum total expenditure of \$200,000.00, unless there is a mutual agreement between the General Chairman and Chief Engineer to permit the use of Signal Engineer's forces on a project involving a total expenditure of less than \$200,000.00.

This dispute arose because Carrier assigned Signal Engineer's forces to perform work which we considered to be violative of the \$200,000 provisions of Rule 21 (b) because there was no agreement with the General Chairman.

During January 1966, while a Division Gang was performing pole line work in connection with moving a pole line from one side of the track to another, Signal Engineer's forces were taken from a job they were doing in order to work on this pole line project.

Under date of January 30, 1966, the Local Chairman filed a protest

General Chairman on September 15, 1966, which was confirmed by letter of October 19, 1966, by Chief Engineer R. M. Brown, copy attached as Carrier's Exhibit F, declining claim. While there have been several informal discussions of the claim in conferences between the Chief Engineer and the General Chairman, the records of the Carrier do not reflect nor did the Organization's representatives at any time imply that they desired further conferences on the instant dispute, nor were we specifically advised of their intention to appeal it to the Board. There has been no challenge nor denial of the matters in the Carrier's letter of declination dated October 19, 1966.

(Exhibits not reproduced)

OPINION OF BOARD: The claim alleges a violation of the Agreement when Carrier used Signal Engineer's forces in March, 1966, to perform work on the Nebraska Division (between 32nd and 84th Streets near Omaha, Nebraska) without an agreement between the General Chairman and the Chief Engineer.

In the handling of the dispute on the property and in its submission to this Board, the Carrier contended that the dispute involves interpretation of the Non-Operating Employees Agreement dated February 7, 1965, and the record indicates that the Carrier has submitted the dispute to the Disputes Committee created for the handling of disputes arising out of the terms of that Agreement.

We must respect the machinery established by the parties for the handling of disputes involving the interpretation or application of the February 7, 1965, Agreement. We will, accordingly dismiss the claim without prejudice. (See Awards 17054, 16869, 16924, 16552, 15696, 14979).

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 claim should be dismissed without prejudice.

A W A R D

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1969.

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