



Award No. 18158
Docket No. SG-18509

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago, Burlington and Quincy Railroad Company:

On behalf of Leading Signal Maintainer C. C. Kennedy, Signal Maintainer V. E. Church, and Assistant Signal Maintainer W. E. Moss of Burlington, Iowa, for two (2) hours and forty (40) minutes pay at the punitive rate each account on May 16, 1968, section men from Gladstone and Monmouth, Illinois, cut and removed bond wires on and around the frog in No. 51 switch at Connett, Illinois.

[Carrier's File: S-111-68.]

EMPLOYEES' STATEMENT OF FACTS: This dispute arose when on May 16, 1968, notwithstanding the absence of the signal maintenance force, Carrier's track forces changed out rails and a crossover "frog" at Connett, Illinois and in so doing opened a track circuit governing the signal system.

The track circuit which serves as a medium to control the automatic signals in this maintenance territory uses the track rails as a component part of the conductor of the track circuit, and the rail joints are bonded to assure a constant and dependable metallic path for the track circuit. The integrity of this particular track circuit was destroyed when the track forces opened the track, and concurrently opened the track circuit by severing the rail joint bonds and removing the rail and cross-over "frog."

The Scope Rule of the Signalmen's Agreement was violated when the rail joint bonds were severed. For ready reference the Scope Rule is quoted below.

"SCOPE.

This agreement governs the rates of pay, hours of service and working conditions of all employees in the Signal Department (except supervisory forces above the rank of foreman, clerical forces and engineering forces) performing the work generally recognized as signal work, which work shall include the construction, installation, maintenance and repair of signals, interlocking plants, highway crossing protection devices and their appurtenances, wayside train

stop and train control equipment, car retarder systems, centralized traffic control systems, signal shop work, and all other work generally recognized as signal work.

It is understood the following classifications shall include all the employees of the Signal Department performing the work enumerated under the heading of 'Scope'."

The claim was handled in the usual and proper manner, up to and including the highest officer of the Carrier designated to handle such disputes without obtaining a satisfactory settlement. Correspondence relating to the dispute has been reproduced and attached hereto, identified as Brotherhood's Exhibit Nos. 1 through 6.

There is an agreement in effect bearing an effective date of July 1, 1952, which is by reference made a part of the record in this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: Prior to the date of the claim, Leading Signal Maintainer C. C. Kennedy was notified by the section forces that they were lined up to change a broken frog in the No. 51 crossover at Connett, with the request that he arrange for bonding after the track work was completed. In a statement addressed to the General Chairman, Kennedy admitted that he and the other two claimants bonded the frog when the track work was completed on the date of the claim. The claim here involves the breaking of the bond which occurred when the frog was lifted out of the switch by the track force crane.

A frog is a device made of rail sections constructed and assembled to permit the wheels of a car or locomotive on one rail of a track to cross another rail of an intersecting track. The frog here involved was a No. 15 rail bound manganese steel frog, a print of which is attached hereto identified as Carrier's Exhibit No. 1.

The schedule of rules agreement between the parties, effective May 1, 1952, is by reference made a part of this submission.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim herein arose as a result of section forces breaking bond wire in the changing of rail and a crossover frog in switch at Connett, Illinois, May 16, 1968.

The Petitioner contends that by the section forces changing out rail and a crossover frog they opened a track circuit governing the signal system, and that Claimants were deprived of generally recognized signal work which accrued to them by virtue of their assignment to the territory where the rail and crossover frog were changed out on the date involved.

The Carrier contends that it has been the practice on this property for some fifty years for Maintenance of Way Employees to break bond wires when changing rails, during which time five separate collective agreements were negotiated without in any way changing, modifying or abrogating the practice. The Carrier has also pointed out that it is in receipt of a Section 6

notice from the petitioning Organization, requesting revision of the Scope Rule of the applicable agreement to include:

"Track bonding, including removal and installation of all types and kinds of bonds. * * *"

The Carrier has submitted substantial evidence in support of its contention with respect to practice. It has become well accepted that recourse to tradition, custom and practice on the Carrier involved is necessary to interpret such terms as "recognized signal work" to establish exclusivity. In the record before use the Petitioner has submitted no evidence as to practice. On the other hand, the Carrier has submitted substantial evidence to support its contention that the breaking of bond wires in the removing or changing of rail has never been "work recognized as signal work" or "generally recognized signal work" as referred to in the Scope Rule.

Based upon the record in this docket, there is no proper basis for a sustaining Award.

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 Employes involved in this dispute are respectively Carrier and Employes 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 9th day of October 1970.