

Award No. 18611
Docket No. SG-18917

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Robert A. Franden, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
PENN CENTRAL TRANSPORTATION COMPANY
(Northern Region)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Penn Central Transportation Company (former New York Central Company-Lines West of Buffalo):

In behalf of Maintainer-Test L. D. Strunk for 2.7 hours pay at overtime rate for May 3, 1969.

(Carrier's File: Sig. Scope Rule: Sig. C-29.2)

EMPLOYES' STATEMENT OF FACTS: There is an agreement between the parties to this dispute bearing an effective date of March 1, 1951, which is by reference made a part of the record herein. Rules thereof pertinent here are:

"RULE 1.

This agreement covers rates of pay, hours of service and working conditions of all employees in the Signal Department classified herein, engaged in the construction, installation, inspection, testing, maintenance and repair either in the signal shop or field of:

(a) Electric, electro-pneumatic, pneumatic, electro-mechanical or mechanical interlocking systems, electric, electro-pneumatic, pneumatic or mechanically operated signals and other signaling systems, highway crossing protective devices generally installed and maintained by signal forces, and appurtenances of all these devices and systems.

(b) Car retarder systems, centralized traffic control systems, wayside automatic train controlling or stopping devices, spring switch mechanisms protected with signals and generally installed and maintained by signal forces, Signal Department pole and duct lines and charging apparatus, signal wires and cables in joint duct and on joint pole lines, bonding of track for signal and interlocking purposes.

(c) Other work generally recognized as signal work."

Account of the operator handling the above referred to switch, the Claimant submitted the instant claim which had been denied and appealed in proper order, up to and including the submission to your Board.

There is in effect an Agreement between the Carrier (former New York Central Railroad Company (Lines West of Buffalo) and the Brotherhood of Railroad Signalmen, effective March 1, 1951, copies of which are on file with your Board.

OPINION OF BOARD: On May 3, 1969 subsequent to a reverse movement by the yard crew the operator located at Nichols Tower at Battle Creek, Michigan continued to receive an indication light signifying that the Block was occupied. The dispatcher was notified and he in turn ordered the operator at the Nichols Interlocking Tower to see if the hand operated bolt lock switch which the yard crew had handled in the reverse movement had been returned to its normal position. The dispatcher ordered the operator to return the switch to its normal position if he found that the yard crew had failed to perform this function.

The Organization alleges that the Carrier violated the Agreement when it failed to call Claimant Strunk to investigate and correct the cause of Signal No. 24 to assume a proceed indication. The Organization claims that the Scope rule in the Agreement between the parties reserves the work in question to the Carrier's signal department employees.

Following is the Scope Rule:

"This agreement covers rates of pay, hours of service and working conditions of all employees in the Signal Department classified herein, engaged in the construction, installation, inspection, testing, maintenance and repair either in the signal shop or field of:

(a) Electric, electro-pneumatic, electro-mechanical or mechanical interlocking systems, electric, electro-pneumatic, pneumatic or mechanically operated signals and other signaling systems, highway crossing protective devices generally installed and maintained by signal forces, and appurtenances of all these devices and systems.

(b) Car retarder systems, centralized traffic control systems, wayside automatic train controlling or stopping devices, spring switch mechanism protected with signals and generally installed and maintained by signal forces, Signal Department pole and duct lines and charging apparatus, signal wires and cables in joint duct and on joint pole lines, bonding of track for signal and interlocking purposes.

(c) Other work generally recognized as signal work."

It is the position of the Organization that the work in question was that of "inspecting and/or testing an interlocking." There is no dispute that if the work is found to be the type alleged it properly belonged to the signal department employees.

We are given as authority in this matter Award No. 13938. In that matter upon reporting for duty the claimant was advised by the retarder operator that a switch had failed during the night and that he had removed some rocks

that had been lodged between the switch point and stock rail and that the switch had functioned properly since that time. In that case Referee Dorsey held:

"The Scope Rule of the Agreement vested signalmen with exclusive right to the work of maintaining and repairing the switch. From this it follows that upon discovery that the switch was malfunctioning, a signalman should have been called to inspect it and remedy the cause. The Retarder Operator crossed craft lines when he undertook to inspect the switch. His action in this regard was violative of the Signalmen's Agreement ab initio. Consequently, his further action in removing some rocks is immaterial." (Emphasis ours.)

In the case at bar the operator was ordered by the dispatcher to determine whether the switch was inadvertently left open by the yard crew. It would be beyond reason to hold that the making of this determination is "inspecting" within the confines of the above quoted Scope Rule.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1971.

Dissent to Award 18611, Docket SG-18917

The Majority cites, with apparent approval, Award 13938 which sustained the Employees' claim, but in denying the present claim, it fails to distinguish the present basis of complaint. We perceive none.

Holding Award 18611 to be error, we dissent.

W. W. Altus, Jr.
Labor Member

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