

Award No. 19058
Docket No. SG-15411

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
THE BALTIMORE AND OHIO CHICAGO TERMINAL
RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Baltimore and Ohio Chicago Terminal Railroad Company:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when, beginning on January 6, 1964, it assigned and/or permitted three persons not covered by that agreement to perform one hundred sixty-nine (169) man hours of signal work in connection with the installation of a track indication signal on a signal mast by the Eastbound Main Track at Ashland Avenue at the approach to Barr Yard.

(b) The Carrier be required to compensate Messrs. T. Mazurowski, J. Kubik, and A. Powers, the three senior furloughed signal employes, at the Signalman rate of pay, on a proportionate basis for all man hours worked by other than signal employes on the construction and installation of this signal.

(c) The Carrier also be required to compensate the senior furloughed signal employe, at the Signalman rate of pay, for all time spent by other than signal employes in maintaining, repairing, reconstructing, testing or inspecting this signal and its associated apparatus, from the time the signal was placed in service on or about January 24, 1964, until this work is properly performed by signal forces.

EMPLOYEES' STATEMENT OF FACTS: As shown by our Statement of Claim, this dispute is based on the fact that other than signal employes performed signal work in connection with the installation of a track indication signal, beginning on or about January 6, 1964.

Under date of February 11, 1964, the Brotherhood's General Chairman presented the claim to the Division Engineer in the same form as it appears in our Statement of Claim. On February 19, 1964, the Division Engineer denied the claim, giving the following reason:

"Your contention and claim is respectfully declined account device is not classed as a signal, not operated by track or signal circuits."

tion of a track indication signal on a signal mast by the Eastbound Main Track at Ashland Avenue at the approach to Barr Yard. * * *."

**Carrier's Special Statement As To The
Nature Of The Claim Made:**

The claim made in this case is basically defective and must be rejected by this Division. Part (c) of the claim as made speaks in terms of "* * * the senior furloughed signal employee, at the Signalmans rate of pay, for all time spent by other than signal employees, etc. * * *."

Section 1(a) of Article V of the August 21, 1954 National Agreement reads in full as follows:

"All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the carrier shall, within 60 days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances."

It has been uniformly held before this tribunal, as well as before other competent labor tribunals, that for a claim to be valid under an application of Section 1(a) of Article V of the National Agreement the employee or employees claiming must be expressly and specifically named, yet there are no named claimants in that part of this claim at (c). It is unsatisfactory to deal in terms of "the senior furloughed signal employee." Such identification does not and cannot meet the requirements of the Time Limit on Claims Rule.

For example, in the Award in Docket No. 43 of Special Board of Adjustment No. 192 (BRC v. B&O) (Referee Francis J. Robertson) it was held in part as follows:

"* * * On August 21, 1954 a national agreement was consummated providing among other things for time limitations on the handling of grievances. * * * The language of Section 1(a) has been considered by a number of Special Boards of Adjustment and also by the Fourth Division of the National Railroad Adjustment Board. Those tribunals have uniformly held that for a claim to be valid the employee must be named. A logical interpretation of the language of the Agreement supports the finding of those tribunals. We agree with those Findings and accordingly hold that the Carrier is liable to pay only those individuals named in the claim filed July 30, 1956. Since the claim on behalf of unnamed people was void when filed, the failure to deny that part of the July 30, 1956 claim within the 60 day period cannot validate it. * * *."

The Carrier submits that the wage claim at part (c) of this dispute is basically defective and must necessarily be denied for the failure of the Committee to name the claim under an application of the Time Limit Rule.

OPINION OF BOARD: Beginning January 6, 1964, Carrier assigned three employees not covered by the Signalmans Agreement to install certain

track indication devices. These three employees worked on this project a total of 169 hours. These track indication devices consisted of a small box with seven track indications installed at the top of a 20 foot mast. Behind each track indication is a 100 watt bulb connected to a 110 volt line leading to the Yardmaster's office. The indicators were controlled by a toggle switch that would light the bulb indicating the correct track on which the Yardmaster wanted the train yarded. The Organization contends that the device in question is a "signal" as contemplated by the Scope Rule. Carrier contends that the device in question does not fall in a category of a "signal" within the meaning of the Scope Rule. The record discloses that the Electricians' Organization was notified and declined to take part in this dispute. Carrier relies chiefly upon prior Awards Nos. 10778, 10977, and 18821. It appears that these three awards can be distinguished from the facts indicated in the instant case. Awards Nos. 10778 and 18821 involve those from members of a train crew to another member of the same train crew. This is not the factual situation in the instant case. Award 10977 was a denial award involving the installation of signal lamps beneath the rear end of each train shed at the passenger station. The claim was denied in Award 10977 for the reason that there was a city ordinance involved requiring the Claimants to be licensed electricians before they were to perform the type of work involved. In that instance, the Claimants were not licensed electricians and the claim was denied. In the instant case, activation of a certain light controlled by a toggle switch operated by a Yardmaster governed the track upon which a certain train was yarded. Although this was a non-automatic signal, it falls within the Scope Rule of the Agreement. It may be conceded the construction and operation of the device is relatively simple when compared to other more sophisticated electronic signal devices; however, the degree of simplicity or complication of construction or operation of a signal device is not a proper criteria in interpretation of the Scope Rule. The track indicator described in this record constitutes a signal that should have been installed by employees of the Signalman's Organization.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 10th day of March 1972.

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