

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19359  
Docket Number SG-18918

Arthur W. Devine, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Norfolk and Western Railway Company -- the former New York, Chicago and St. Louis Railroad Company -- that:

(a) The Carrier violated the Signalmen's Agreement, and especially Rule 1 (Scope) when on or about September 27, 1968, employees of the Bridge and Building Department installed oil fuel lines on the switch heaters at No. 31 switch and 33B cross-over near Bellevue, Ohio.

(b) Leading Signalman S. E. Ladd and Signalman D. C. Noirot be paid at their straight-time rate for an equal number of hours worked on the project by Bridge and Building Department employees. (Carrier's File: chm/jsm)

OPINION OF BOARD: The claim herein arose as a result of other than signalmen installing a fuel line to switch heaters at or near Bellevue, Ohio.

The record shows that the oil fired switch heaters were installed by signalmen, and the fuel tank was erected by sheet metal workers. Sheet metal workers performed the work of burying the fuel line from the storage tank to the heater. The work in dispute is the burying of the fuel line from the fuel tank to the heater.

In its submission to the Board the Carrier contends that the claim is vague and indefinite and was not submitted on the property within the time limit specified in the agreement.

We find the claim as presented on November 23, 1968, and as progressed on the property not to be vague and indefinite. It set forth the basis for the claim and the amount claimed in behalf of claimants, i.e., that they "be paid at their straight time rate and equal to the number of man-hours worked by B&B employees who did work on this project." The Carrier's contention as to timeliness of filing was not actually raised by the Carrier on the property, and, therefore, will not be considered.

In the handling of the dispute on the property the Petitioner contended:

"About 1960 switch heaters were first installed on the former Nickel Plate railroad in the vicinity of Conneaut, Ohio by signal department employees thereby establishing the fact that such work was generally recognized signal work

"covered by Rule 1 of the Agreement. About 1966 many switch heaters were installed by signalmen on the Eastern Seniority District. Heaters were also installed in the vicinity of Toledo and Leipsic, Ohio. All work on these heaters was performed by Signalmen, including the installation of fuel lines. At no time did other employees question our right to perform any of the work involved."

While the assertions by the Petitioner are not to be considered conclusive proof, it did present a prima facie case for the Organization and the burden of going forward with the proof shifted to the Carrier. See Award 12096. In the handling on the property the Carrier did not meet the burden required of it.

There is no dispute in the record as to the right of signalmen to install and maintain the switch heaters as such. The burying of the fuel line was incidental thereto. The claim will be sustained.

The Board has considered the submission of the Sheet Metal Workers and the rule cited therein; however, based on the entire record we find that the Signalmen's Agreement was violated.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 28th day of July 1972.