

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19621
Docket Number SG-16908

Alfred H. Brent, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(The Baltimore and Ohio Railroad Company

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

(a) Carrier violated and continued to violate the Signalmen's Agreement, as amended, when, on **or** about January 5, 1966, other than Signal Department **employees** were assigned to install, test, maintain, and repair carrier paraphernalia at Eidenau, Pennsylvania, and home signals at Mackin Siding, Butler Branch, in connection with the control and indications of home signals at Mackin Siding.

(b) Members of the Signal Gang under the direction of Signal Foreman L. L. Clrilli be allowed an amount of time at their individual applicable rates of pay equal to that consumed by others in performing the signal work at issue. Such payment to continue so long as this violation exists.

(c) Signal Maintainer **J. S. Zattiero**, headquarters at Evans City, Pennsylvania, whose territory includes the above mentioned, be allowed the amount of time at his applicable rate of pay equal to that consumed by others in performing the signal work at issue. Such payment to continue so long as this violation exists.

OPINION OF BOARD: This dispute developed when the Carrier assigned members of the I.B.E.W. **communication** workers to install, test, maintain and repair "carrier" **paraphenalia** at Eidenau, Pennsylvania and Mackin Siding, Butler Branch, which the Signalmen's Organization claim should be done by their members and therefore was a violation of their agreement with the Carrier. The I.B.E.W. intervened and filed a brief supporting their contention that the assignment of this work should be to its members.

The Signalmen's Organization claims this work because the items in dispute are integral parts of the signal system in operation between Eidenau and Mackin Siding, Butler Branch; the function of this system is to control Mackin Siding Home signals and to receive such signal indications at the Tower in Eidenau.

The Signalmen's Scope Rule as it relates to this dispute is as follows:
"This agreement governs the rates of pay, hours of service and working conditions of all employees classified in Article 1 of the Agreement, either in the shop **or** in the field. engaged in the work of construction. installation. inspecting. testing. maintenance. repair and painting of:

"(a) Signals including electric locks, relays and all other apparatus considered as a part of the signal system, excluding signal bridges and cantilevers.

(b) Interlocking systems, excluding the tower structure.

(d) Signal Department conduits, wires and cables, overhead or underground.

Power lines installed primarily for signal purposes. Where power is supplied from signal power lines for other purposes Signalmen's work will include line taps, transformers and service line up to and including a fused switch adjacent to said power line. Where power is supplied **from** other sources for Signal Department purposes, Signalmen's work will exclude work from such source to and including a fused switch or approved receptacle at designated points of delivery. Signalmen's work will include all work from such point of delivery to and including signal facilities.

(e) Wayside equipment necessary for cab signal, train stop and train control systems.

(g) Traffic control systems.

(j) All work generally recognized as signal work. (emphasis supplied)"

The Carrier contends that the "carrier equipment or **paraphernalia**" at issue is communication equipment and the work belongs under the I.B.E.W. agreement, as argued by the **Intervenor**. The Railroad's position is described as follows: "The equipment used for **communication** between Eidenau and Mackin Siding for signal control and indication purposes falls into **two** categories. First, a transmitter and receiver operating in the 400 cycle to 2500 cycle frequency range are used for each function. These transmitters and receivers were installed and are being maintained by Signal employees." (Emphasis supplied.)

Second, "A carrier operating at 35KC working **over communication** wires is utilized in transmission of the above mentioned frequencies. The carrier must be coordinated with **other communication** facilities operating over the **communication** line wires. The carrier equipment cannot be considered **as** a part of the signal system."

The Signalmen's Organization contends that the "carrier" in dispute is not **used** jointly for **communication** or signal purposes and that the "Carrier failed completely in the record to show the equipment is used for any purpose other than to control and operate the Signal System in question. And the affidavit by John R. McDonald (Exhibit No. 7) conclusively proves that it has no other function."

This Board has recently examined similar disputes between these same parties in Awards 18898, 19000 by Referee Cull, 19131 by Referee Ritter and 19428 by Referee O'Brien.

This Board finds that the "carrier equipment" here involved is similar to the "carrier equipment" involved in these prior Awards. **This** Board finds that these Awards are compatible with the facts here. That these Awards are not in palpable error and that the Board must apply the doctrine of Stare Decisis. The work in dispute here was properly **assigned** by the Carrier.

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 not violated.

A W A R D

The Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST :


Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1973.