

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20242
Docket Number SE19832

Irwin M. Lieberman, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(George P. Baker, Richard C. Bond, **Jervis Langdon**,
(Jr., and Willard Wirtz, Trustees of the Property
(of Penn Central Transportation Company, Debtor

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

In favor of Leading Signal Maintainer F. J. **Quada** for fifteen
(15) hours' punitive time for April 3, 1971--**Claimant's** rest day--account
not called on this date to assist Signal **Maintainer** R. J. Sales to cor-
rect signal trouble in the hours of 6:30 A.M. and 11:30 A.M. at Elm Ave.,
Dearborn, **Michigan**; and the hours of 11:30 and 4:00 P.M. at Signal 284;
and the hours of 4:00 P.M. and 6:30 P.M. at Signal 592; and the hours of
6:30 P.M. and 9:30 P.M. at Signal 352; instead, Carrier used Signal In-
spector G. **Gowanlock** to assist Signal **Maintainer** Sales, this in violation
of the Scope Rule of the current Craft Working Agreement.

OPINION OF BOARD: On Saturday April 3, 1971, Claimant, a Leading Signal
Maintainer, was observing one of his regularly assigned
rest days. On that date, a Signal **Maintainer** and a Signal Inspector were
called out on an overtime basis to correct flasher trouble at a crossing
in Dearborn, **Michigan**. After this work was completed, the two men were
held on duty to correct three other signal problems.

Petitioner contends that the Agreement was violated when Carrier
called and used an employee not covered by the Agreement, the Signal In-
spector, to assist the Signal **Maintainer** in correcting the signal failures
on April 3, 1971. It is urged that Carrier violated the Scope Rule of the
Agreement by its action and further that by practice, tradition and custom
craft **employees** are called and used to perform the work of correcting sig-
nal troubles.

Carrier argues that there is nothing in the Agreement which
would prohibit the employment of an inspector (who is represented by the
same Organization under a separate Agreement) to assist a craft **employee**
in the detection and correction of signal problems, Carrier states that
the Signal Inspector was called out in this instance because of his tech-
nical **knowledge** of the overlay circuits involved and in order to correct
the problem as rapidly as possible. The Scope Rule in this Agreement
provides as follows:

"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."

Under the Agreement between the Organization and the Carrier covering Signal Inspectors, Rule 1 provides a definition of the **Inspector's** functions as predominantly "...**testing** and inspecting signal systems, signal facilities, signal apparatus and appurtenances and other duties associated therewith." Carrier **claims that** Signal Inspectors, by custom and practice, aid in the restoration of signals as incidental to their primary work of testing and inspecting signals; this work is believed to come under the "other duties associated therewith" cited above.

The Scope Rule above is general in nature and does not per se reserve the work described to employees covered by the Agreement. It is well established that **with** a general scope rule only the **existence** of a system-wide history of practice and custom can support an exclusive right to specific work; this has not been shown in this dispute. In a related matter involving the same parties (Award 17706) we also found that the Scope Rule did not reserve the work exclusively to employees of the craft. In this dispute we do not find any basis for distinguishing between the work of the two classifications involved; the Petitioner has provided assertion but no facts. Since the burden of proof has not been met, the Claim must be denied.

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 not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD **ADJUSTMENT** BOARD
By Order of Third Division

ATTEST: *A.W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 17th day of **May** 1974.