

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20538
Dock-t Number SC-20410

William M. Edgett, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Louisville and Nashville Railroad Company

STATEMENT OF CLAIM: Claims of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company that:

Claim No. 1.

- (a) Carrier violated the current **Signalmen's** Agreement, as amended, particularly the Scope, when, beginning **on or about August 23, 1971, it allowed** and/or **permitted employees** of the Illinois Power Company to install line and light fixtures (flood lights) on poles carrying Communication and Signal lines at Brewer Yards, **Danville**, Illinois, on the former **C&EI** Chicago Subdivision.
- (b) Carrier should **now** be required to compensate Signal Maintainers A. **H. Royer** and R. E. Winegardner for **37½** hours each at the straight-time rate, which is one-half the total hours being claimed: the **other** 175 hours being claimed for Telegraph and Telephone **(T&T) employees.**

[Carrier's File: G-201-18; G-2017]

Claim No. 2.

- (a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when, beginning on or about August 23, **1971**, it allowed and/or permitted **employees** of the Illinois Power Company to install line and light fixtures (flood lights) on poles **carrying** Communication and Signal lines at Brewer Yards, **Danville**, Illinois, on the **former** **C&EI** Chicago Subdivision.
- (b) Carrier should **now** be required to compensate T&T Maintainers R. J. Tolbert and J. C. Fox for **87½** hours each at the time and one-half rate.

[Carrier's File: G-201-18]

OPINION OF BOARD: In August, 1971, the Illinois Power Company installed light fixtures and associated power line at Carrier's Brewer Yards, Danville, Illinois. The Power Company made the installation on poles which were in place, and which carry communication signal lines.

The claim alleges a violation of the scope rule and a Memorandum dated January 8, 1941. The Memorandum covers a specific location, Oaklawn, and refers to the practice at that location. Even if other objections to it were disregarded, it is not evidence of practice at locations other than Oaklawn, and certainly not of system wide practice. The Scope Rule before the Board does not cover the work in specific terms and the Organization must rely on that portion of it which states "and all other work".

The decisions of this Board have held that in order to show that certain work is reserved to them, under a Rule which does not make such a reservation clear on its face, the employees must show that the work has been theirs by custom, practice and tradition on a systemwide basis. They have been unable to do so on this record and 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:


Executive Secretary

Dated at Chicago, Illinois, this 13th day of December 1974.

Dissent to Award 20538, Docket SG-20410

The Majority in Award 20538 must have **had** a cinder in its collective eye when it had before it the Petitioner's competent evidence of system practice. Had a clear look been **taken** at the evidence, the statement that Petitioner has been unable to show it surely **would** not have been made.

Award 20538 is in error, and I dissent.


W. W. Altus, Jr.
Labor Member