

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **20599**
Docket Number w-20414

Dana E. Eischen, Referee

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

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

(a) Carrier violated the Signalmen's Agreement, particularly the Scope, when, on September 27, 1971, and October 4, 1971, persons other than signal **employees** were used at or near Moran, **Tenn.**, and at or near **Holts** Corner, Tenn., to install meter bases, conduit and wires used exclusively for operation of Carrier's signal system.

(b) Carrier should pay to Signal Maintainer C. K. **Armstrong** additional compensation equal to twenty-four (24) hours at his overtime rate. (Carrier's File: G-304-12)

OPINION OF BOARD: On the claim dates Carrier utilized **employees** in the positions of **Road** Electricians to install certain electrical power feeds (a meter base, conduit and wires) for the **use** of **commercial** electric power. By letter of **November 24, 1971** the **instant** claim was filed by the Organization in behalf of **Claimant** C. K. Armstrong alleging that the installation of power feeds from **commercial** lines was vested in the **Signalmen's** Craft by virtue of the Scope **Rule** of the applicable agreement.

The **claim** was processed without resolution on the property and now comes to us for disposition. Inasmuch as the electricians had an interest in the outcome the International Brotherhood of Electrical Workers, representing Carriers' electrical employees **was** invited **to** participate as a third party to this dispute and has presented a statement of its position on the record for our consideration.

Turning to the merits of the instant **claim**, we note that the cited Scope **Rule** reads in pertinent part as follows:

"**RULE 1. SCOPE**

This agreement covers the rates of pay, hours of service and working conditions of all employee, classified herein, engaged in the construction, installation, repair, inspecting, testing and maintenance of all interlocking systems and devices; signals and signaling systems;

"wayside devices and equipment for train stop and train controls; car retarders and car retarder **systems**; power operated gage mechanism; automatic or other devices used for protection of highway crossings; spring switch mechanism; electric switch targets together with wires and cables; train order signals in signaled territory and elsewhere within the limits of a signal maintainer's territory; power or other lines, with poles, fixtures, conduit systems, transformers, arresters and wires or cables pertaining to interlocking and signaling systems; interlocking and signal lighting; storage battery plants with charging outfits and switch board equipment; substations, current generating and compressed air plants, exclusively used by the Signal Department, pipe lines **and** connections used for Signal Department purposes; carpenter, concrete and form work in connection with signal **and** interlocking systems (except that required in buildings, **towers** and **signal** bridges); together with all appurtenances pertaining to the above **named** systems and devices, as well as any other work generally recognized as signal work."

While "power or other lines" are listed inter **alia** among the work performed by employees subject to the Signalmen's Agreement, nowhere is there a clear and **express** reservation of this work to signal employees to the exclusion of others. Accordingly under well established rules of constructfan followed by this Board we must look **beyond** the **Rule** to custom, practice and tradition for the requisite exclusivity. See Awards 10615, 10931 et al

Close examination of the record herein shows no exclusive performance of the work in question by the Signal employees or **any** other craft. Indeed, the record shows that over the years such installation has been performed by signal employees, electrical employees of Carrier, (sometimes in combination) **and** by employees of outside contractors. **Such** inconsistency hardly meets the requirement of exclusivity which **must** be shown in such cases. In these circumstances **we have** no recourse but to deny the claim herein.

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;

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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 31st day of January 1975.