

NATIONAL RAILROAD **ADJUSTMENT** BOARD

**THIRD** DIVISION

Award Number **20846**  
Docket Number SG-20781

**Francis X. Quinn, 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 end **Western** Railway Company:

(a) The Carrier violated the current Signalmen's Agreement, particularly the Scope and Rule **8** (1), **when it** used **employees** not covered by the Signalmen's Agreement to perform signal work at Portsmouth, Ohio.

(b) The Carrier now pay Signal Maintainer Nelson Bellar eight and one-tenths (8.1) hours at his overtime rate of pay for the violations cited in part (a):

(1) On Friday August **18**, 1972, **an** electrician was called to replace an amber lamp at West Avenue, Portsmouth, Ohio, (2.7 hours).

(2) On Tuesday September 5, 1972, a switch tender installed an indication **lamp** in the switching signal at **the** switch tender shanty, West Avenue, Portsmouth, Ohio (2.7 hours).

(3) On Thursday September 21, 1972, an electrician **in-** stalled an amber lamp at the witch tender shanty, **West** Avenue, Portsmouth, Ohio, (2.7 hours).

The foregoing, initiated under date of October 5, 1972, **was supplemented** by the following:

"**This** claim is **filed** as a continuing violation in accordance with **Rule** 52 (3) of the current Signalmen's Agreement dated October 1, 1957."

Under date of July 9, 1973, the foregoing **was** supplemented by the following:

"Below is a **list** of continuing **violations** that have occurred **since** the above **claims** were presented to the Carrier :

- (1) **On** Monday October 30, 1972, an electrician installed an amber **lamp** in the switching signal at the switch tender shanty, West Avenue Portsmouth, Ohio, (2.7 hours).
- (2) On Wednesday November 15, 1972, an electrician installed a red **lamp** in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).
- (3) On Tuesday December 14, 1972, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).
- (4) On Thursday February 1, 1973, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio (2.7 hours).
- (5) On Thursday March 1, 1973, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).
- (6) **On** Monday March 26, 1973, an electrician installed an amber **lamp** in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio (2.7).
- (7) **On** Wednesday May 2, 1973, an electrician installed an **amber lamp** in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).

OPINION OF BOARD: Two previous awards, 20528 and 20690 involving the **same** parties **and** the same issue are clear in establishing that the Organization has the burden of proof in disputes such as this **involving** exclusivity. The record in the instant dispute contains **no** new material evidence which would persuade us **to** change the view expressed in these earlier awards. We find Awards 20528 and 20690 to be controlling and must deny the Claims 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;

Award Number 20846  
Docket Number SG-20781

Page 3

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Petitioner has failed to meet its burden of proof.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois this 24th day of October 1975.