

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22652
Docket Number SC-22451

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Atlanta and West Point Railroad Company-
{ The Western Railway of Alabama
{ Georgia Railroad

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Atlanta and West Point Railroad Company, The Western Railway of Alabama, Georgia Railroad, on behalf of Signalmen J. L. Yancey and Scott H. Glover, assigned to signal gang, T. C. Wallace Foreman, for eight (8) hours straight time on February 24, 1977, and for ten (10) hours straight time on March 7, 1977, for each claimant and to be in addition to any pay they have already received, because they were required to perform telephone work when they were instructed to dismantle telephone line between Mayson Avenue and Atlanta Yard."

OPINION OF BOARD: Claimants assert that on two separate dates they were required to dismantle telephone lines (although they were assigned to a signal gang) in violation of Rules 6 and 59(d):

"RULE 6

Signalman, Signal Maintainer, Telephone-Telegraph Maintainer: An employee assigned to perform work generally recognized as signal work shall be classified as Signalman or Signal Maintainer. An employee assigned to perform work generally recognized as communication work shall be classified as Telephone-Telegraph Maintainer."

"RULE 59

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(d) Signalmen will perform only signal work. Telephone-Telegraph men will perform only communication work. When failures occur to

"either system or emergencies occur, if an employee assigned to the class of work is not **available, employees** of the other **craft** may be used to put the system in **temporary working** order. **Permanent repairs will be** made by employees **in** the craft of the work."

On the property, the **Carrier** asserted that the **pole line** had been **abandoned in** place prior to claim dates and **all** telephone **equipment removed** and lines cut by maintainers. **While removing** the poles, the lines were taken up by a **Signal Gang**, as per past practice when a **line** was abandoned. Claimant **denied any such** past practice.

In its presentation here, Carrier urges that the work did not belong to any **craft and thus**, Claimants were **used to** dismantle **the telephone lines** which had already been cut. It relies upon Award **19994** which held that Rules Agreements contemplate work related to the **operation** and/or maintenance of the railroad, but not to abandoned facilities.

In its initial claim, the **Employees** stated that they were **"...required to** perform telephone work when they were instructed to remove wires and **crossarms** which only carried telephone circuits..." and in further correspondence they cite Rule **59(d)** as authority for the proposition that the **line should have been dismantled by** **communications employees**.

our **prims difficulty** with **Carrier's** contention is that the **Scope Rule, itself, makes specific reference to "dismantling" of communication facilities**, and it specifies that classified **employees perform work covered by the agreement. The same agreement then specifies that Telephone-Telegraph men will perform only communication work. As we understand the Carrier's contentions, if these Claimants had performed the work in question prior to January 31, 1977, the agreement would have been violated; but, because it happened after that date, the lines were "abandoned" and the agreement did not apply. We do not read Award 19994 as being quite that restrictive. We accept the validity of that Award, but we feel that it does not apply to these particular facts. These lines were not "abandoned" in the usual context. Rather, they were being retrieved in an orderly fashion, shortly after a conscious, deliberate decision was made concerning service by the Atlanta Rapid Transit Authority. When these facts are applied to these specific rules, a violation occurred.**

We are not unmindful of Carrier's assertion of past practice, but that was **only an assertion devoid of** actual proof. Nor have we **ignored** the Carrier's **argument** to this **Board** that **no** Award of **damages** should be made because there was no loss of work opportunity. But, that contention was not raised **and argued** on the property.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, **Illinois**, this 30th day of **November 1979**.