

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (Conrail):

Claim on behalf of Signal Maintainer R. L. Galloway, headquartered Steel Tower, Bethlehem, PA; assigned territory, C.P. JU to C.P. Allen; assigned hours 7 a.m. to 3:30 p.m., meal period by agreement; rest days Saturdays, Sundays, and holidays.

(a) Carrier violated the current Signalmen's Agreement as amended, particularly the Scope, and Rule 5-A-1(h), when it required and/or permitted track forces to remove bond wires between C.P. Canal and C.P. Allen on Sunday March 18, 1984.

(b) Carrier should now compensate Maintainer Galloway all time paid M. of W. forces at the time and one-half rate plus any travel and/or meal periods he would have otherwise been entitled to receive if he wasn't denied the loss of work opportunity and/or as a consequence of the above violations." Carrier file: SD-2139

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

As Third Party in Interest, the Brotherhood of Maintenance of Way Employes was advised of the pendency of this dispute and did not file a Submission with the Division.

The facts of this case essentially are undisputed in the record of handling on the property. Claimant was employed on Claim date as a Signal Maintainer headquartered at Steel Town, Bethlehem, Pennsylvania. On Sunday, March 18, 1984, Claimant's assigned rest day, track forces represented by

Brotherhood of Maintenance of Way Employees replaced a defective rail in the territory assigned to Claimant for signal maintenance. In changing out the defective rail, the track forces removed signal bond wires. In handling on the property, it never was disputed that in removing bond wires the track forces opened working track circuits. Three (3) days later Claimant was notified of the track removal and he went to the site, dug up part of the crossing, and installed new bond wires to restore the signal circuit.

On May 8, 1984, the Organization's Local Chairman filed this Claim for Claimant, seeking time and one-half damages for all time spent working by the track forces on March 18, 1984, together with travel and meal expenses.

There is no basis in this record for the inflated damages sought by Claimant. On the other hand, Carrier's Claim of de minimus violation is not persuasive. The record does demonstrate a clear violation of the Scope Rule in the Signalmen's Agreement, for which an appropriate remedial award is indicated. Unlike the former NYCRR Rule, the Scope Rule in the revised Signalmen's Agreement of 1981 is a "specific" rule which reserves to Agreement-covered signal employees "... removal of the following signal equipment ... impedance bonds, signalbonds and track connection leads." In an early decision, this Board decided in Third Division Award 8069 that under circumstances like those presented on this record the breaking of signal bonds by track forces was Agreement-covered work under a specific Scope Rule:

"We are inclined to believe that the mere cutting, removal, dismantling, destruction or salvaging of equipment is not necessarily reserved to those who construct it in the first place, for such operations seldom if ever require comparable skills, but in the case at hand we believe the breaking of the track bonds, which had the effect of opening the circuit and affecting the whole signal system within the CTC was an appurtenance to and an integral part of the signal system and that under these circumstances it is embraced within the broad language of the contract. (See Awards 6584 (Bakke)) At least this view appears to us to be more logical than the opposite."


In all of the circumstances, we find that Carrier did violate the Scope Rule and that the appropriate remedy is one (1) call, i.e., three (3) hours at time and one-half.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 10th day of August 1989.