

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA
ATLANTA AND WEST POINT RAILROAD COMPANY
THE WESTERN RAILWAY OF ALABAMA

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Atlanta and West Point Railroad Company-The Western Railway of Alabama that:

(a) The Carrier violated the Signalmen's Agreement when, during the year 1947, it farmed out, removed, or otherwise arranged or assigned Scope work to persons not covered by and who hold no seniority rights under the provisions of the current Signalmen's Agreement;

(b) Signal Maintainers J. E. Skinner, R. D. Mitchell, and G. F. Harper, by reason of violation of the Signalmen's Agreement, be compensated as comprehended in the Statement of Facts at their proper rate of pay on the basis of time and one-half for an amount of time equivalent to that required by persons not covered by the agreement to perform the signal work involved.

EMPLOYEES' STATEMENT OF FACTS: An agreement bearing effective date of September 1, 1946 is in effect between the Atlanta and West Point Railroad Company-The Western Railway of Alabama, and the Brotherhood of Railroad Signalmen of America, representing all employees of the Carrier who perform generally recognized signal work. This agreement governs the rates of pay, hours of service, and working conditions of all employees performing the work covered by the Scope of the Signalmen's Agreement. The Scope of the Signalmen's Agreement defines the classes of work generally recognized as signal work. There are no exceptions of any nature to the Scope rule which provide for the diversion of the signal work involved in this dispute. The Scope rule of the agreement specifically covers the constructing, installing, inspecting, testing, maintenance, dismantling, and repair of all signals and highway crossing protection devices and all other work generally recognized as signal work.

The Scope rule further provides that no employees other than those classified in the agreement will be permitted or required to perform any of the work covered by the Scope of the agreement.

Signal Department employees were available for this work and could have been used outside of their regular working hours to perform the work. The agreement provides for payment for work performed outside of regular hours.

The agreement bearing effective date of September 1, 1946 is by reference made a part of the record in this dispute.

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

These men were guaranteed so much per month regardless of character of work performed. In April 1947 Skinner was guaranteed \$269.50. He made \$269.50. Mitchell was guaranteed \$269.50, he made \$277.61. Harper was guaranteed \$269.50, he made \$282.36.

These men lost absolutely nothing. Skinner and Mitchell would not have performed the work on overtime. There was nothing hurried about it. Insofar as Harper is concerned, this is one for the books. He asked for help because he could not properly perform his job and then when he was given help, he has the nerve to ask for overtime. This goes beyond "featherbedding." He wants a featherbed and an eiderdown cover.

Frankly, if anybody has a claim, it is the Maintenance of Way men who did the work. The Signalmen lost absolutely nothing and are merely trying to get something for nothing. Their claim is utterly without merit and we respectfully request that it be declined.

OPINION OF BOARD: The dispute before us involves three instances occurring at different times and places in which it is claimed that work belonging to Signalmen was given to track forces. We shall briefly state the situation as to each.

(1) On April 3 and 4, 1947, at Auburn Alabama, and on May 13 and 14, 1947, at Opelika, Alabama, section men were assigned to assist Claimant Skinner in performing his work as a Signal Maintainer. The work consisted of digging ditches for parkway cable and backfilling the same, jacking pipe through crossings, digging holes for foundations and helping to set signal cases and poles, all in connection with the installation of flashing light crossing signals. It is claimed that 160 man hours were consumed on this work. Claimant demands that he be paid time and one-half at at signal maintainer's rate for this violation. The record shows that claimant is a monthly rated employe. He is guaranteed a monthly salary of \$269.50 for 220 hours' work and overtime after 220 hours. In April, 1947, he worked 202 hours and was paid for 220 hours (\$269.50). In May, 1947, he worked 234 hours and 40 minutes, 14 hours and 40 minutes were paid for at the overtime rate in excess of his monthly salary of \$269.50.

There can be no doubt that the work was within the Signalmen's Agreement and was work usually performed by Signal Helpers, the lowest rated employes under that Agreement. There were no Signal Helpers in Carrier's employ or on furlough. The only employes who might have been used were Signal Maintainers who would have had to be taken from their assigned territory and thereby leave it unprotected. Claimant was fully occupied and could not have done the work. Yet, work belonging under the Signalmen's Agreement was taken from them and the scope rule thereof plainly states that "No employes other than those classified herein will be required or permitted to perform any of the work covered by the scope of this agreement."

Under such circumstances, what is the loss sustained? The time lost was 160 hours. The work being that of a Signal Helper, the rate of pay or value of the work per hour is the Signal Helper's rate. No one involved worked in excess of eight hours on any day. No overtime rates therefore have any bearing on the result. This portion of the claim should therefore be sustained for 160 hours at the Signal Helper's rate.

(2) On July 15 and 17, 1947, at West Point, Georgia, section men were assigned to assist Claimant Mitchell in performing his work as a Signal Maintainer. The work consisted of digging trenches for parkway cables and backfilling same, and helping to move the flashing light crossing signal at that point, a distance of 14 feet. It is claimed that 40 man-hours were

consumed in this work. Claimant demands that he be paid time and one-half at a Signal Maintainer's rate for this violation. The rules announced in part (1) of this award apply and the claim will be sustained for 40 hours at the Signal Helper's rate.

(3) On August 11, 12, 13, 14 and 15, at Coughs, Alabama, a section man was assigned to assist Claimant Harper in drilling and bonding rail. It is claimed that 43 man-hours were consumed in this work. The section man was used in placing a twin drill on and off the track. The record shows that Claimant did not use a twin drill all the time during the period of this claim. The work performed by the section man was Signal Helper's work. The claim should be sustained for the time the section man assisted claimant at the Signal Helper's rate. The record will not sustain the claim for 43 hours. The claim will be remanded for a joint check and determination of the time worked by the section man as a Signal Helper during the period of this claim. Claimant should then be paid for such hours thus determined at the Signal Helper's rate.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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.

AWARD

Claim (a) sustained. Claim (b) sustained as to Claimant Skinner for 160 hours at Signal Helper's rate. Claim (b) sustained as to Claimant Mitchell for 40 hours at Signal Helper's rate. Claim (b) remanded as to Claimant Harper as per opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 26th day of June, 1950.