

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

ERIE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee, Brotherhood of Railroad Signalmen of America, on the Erie Railroad:

(a) That the Carrier violated the Signalmen's Agreement, particularly the Scope Rule, when on or about July 7, 1954, it procured prepared wire identifying tags for the signaling facilities located at Kouts, Indiana.

(b) That full compensation for this diverted scope work be equally proportioned and paid to the members of Gang No. 33, namely, W. J. Bryant, W. Nicodemus, H. J. Pearson, J. F. Ledvina, and E. F. Brooks.

EMPLOYES' STATEMENT OF FACTS: The signal apparatus and work involved in this case consists of the lettering and numbering of tags used for identifying of wires carrying signal and interlocking circuits and other purposes in the Signal Department. The Board will please understand that the purchase of blank tags by the Carrier is not involved in this case.

The lettering and numbering of these tags has been performed by Signal Department employees for many years.

In the instant case the Carrier purchased plastic tags with the numbers and letters placed thereon by a manufacturer in accordance with this Carrier's prepared list.

Prior to the inception of plastic tags, blank fibre tags were supplied to Signal Department employees who, in turn, lettered and numbered the fibre tags from the Carrier's blueprints by the stenciling method.

Identifying tags are necessary in connection with the installation and maintenance of signaling apparatus covered by the Scope Rule of the current Signalmen's working agreement with this Carrier and has been generally recognized as work covered by the agreement.

The claimants were adversely affected when the Carrier diverted the work of lettering and numbering of signal wire identifying tags to a party or parties not covered by the agreement.

As previously shown, the Carrier filed a submission with this Board under date of October 10, 1955, concerning its right to purchase prepared circuit wire identifying tags. Therefore, all that is said beginning at page 5 to the end thereof is by reference thereto made a part hereof, as though set out herein word for word, including Carrier's Exhibits "E," "F," "G" and "H" appended to that submission.

In addition, the Carrier submits that none of the claimants lost any compensation or work to which he is entitled under the Agreement. It cannot be shown that any of them would have received more compensation if Carrier had not purchased the tags. Stated differently, the Petitioner cannot show by competent proof that the claimants would have earned more compensation if they had prepared the tags in question or for that matter if all or any of the claimants would have prepared the tags. Any argument to the contrary would necessarily be founded on speculation which, of course, is no proof at all. Positive proof is required to substantiate allegations made. Award 6359 and awards cited therein.

As shown hereinbefore, Third Division Awards 4662 and 5044 furnish adequate authority to deny this claim. To the same effect is Second Division Award 1990, dated October 6, 1955.

The Carrier submits that the claim, for the reason shown herein, is not properly before this Board and accordingly it should be dismissed. However, if the Board should take a different view and elect to decide the dispute in the light of the agreement between the parties, it is clear that the claim is wholly without merit and it should, therefore, be denied in its entirety.

All data contained herein are known to or have been discussed with the Petitioner.

(Exhibits not reproduced.)

OPINION OF BOARD: It is agreed by the parties that the basic issue in SG-7939 is the same as in SG-7824, SG-8314 and SG-8315.

The parties to this dispute, their contentions and the rule at issue are the same as in Companion Docket SG-7824, this day decided by Award 7841, and said Award now is held to be controlling in this docket.

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 has not been violated.

AWARD

Claims (a) and (b) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1957.