

Award No. 11281
Docket No. SG-10823

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Martin I. Rose, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen of America on the Pennsylvania Railroad Company:

On behalf of E. T. Hunt, Foreman C. & S. Logansport District, R. L. Bridenthal, Signalman, B. W. Bixler, Signalman, W. L. Baker, Signalman, E. F. Fugiett, Asst. Signalman, R. K. Frazier, Signalman, A. F. McQuinn, Asst. Signalman, R. L. Myers, Asst. Signalman, C. F. Leffert, Asst. Signalman, R. L. Hinkle, Maintainer C. & S., Marion, Indiana, C. L. Pfost, Maintainer Test, North Judson, Indiana, A. R. McCrosky, Leading Maintainer C. & S. Logansport, Indiana, S. M. Shaver, Maintainer Signal, Race Tower, Logansport, Indiana, D. S. Higgins, Maintainer C. & S., Anoka Tower, Logansport, Indiana, H. W. Brant, Maintainer Test, Logansport, Indiana, J. A. Kistler, Maintainer C. & S., Winamac, Indiana, R. E. Brant, Maintainer C. & S. Ridgeville, Indiana, R. E. Hamon, Maintainer Test, Red Key, Indiana, C. R. Handy, Signalman, and W. D. Best, Leading Maintainer C. & S., Marion, Indiana, for time worked on April 14, 1957, by five (5) Linemen and one (1) Foreman from 6:00 A. M. to 6:00 P. M. between Star City and Kenneth, Indiana, and on May 4, 1957, by two (2) Linemen and one (1) Foreman from 6:00 A. M. to 4:00 P. M. between Royal Centre and Kenneth, Indiana, account of assisting to unload telegraph poles and crossarms from work train. This was in violation of The Western Region Agreement dated November 10, 1945, and particularly Rule 7 and 8. [Carrier's System Docket No. 4—Northwestern Region Case No. 6]

EMPLOYES' STATEMENT OF FACTS: A violent sleet storm on April 3, 1957, caused severe damage to communication lines and poles in the vicinity of Logansport, Indiana, M.P. 197.7, and particularly in the territory north and west of Logansport between Kenneth, M.P. 203.4, and Star City, Indiana, M.P. 219.3, on the main line between Logansport and Chicago, Illinois.

On Sunday, April 14, 1957, a C & S Foreman and five Signalmen from the Inter-regional Gang District No. 3, in addition to a Maintenance of Way force composed of two Track Foremen and seven Trackmen, were used with a Maintenance of Way work train to unload two carloads (approximately 110

upon by the parties to this dispute. The Board has no jurisdiction or authority to take such action.

CONCLUSION

The Carrier has shown that the work of assisting in the unloading of the telegraph poles, crossarms, and hardware on April 14 and May 4, 1957, properly was performed by members of the Interregional Gang, and that such action in no way aggrieved the Claimants who had no demand right whatsoever to its performance.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claims of the Employees in this matter.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Employees, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter and the establishment of a record of all of the same.

All data contained herein have been presented to the employees involved or to their duly authorized representatives.

(Exhibits not reproduced.)

OPINION OF BOARD: On Sunday, April 14, 1957, and Saturday, May 4, 1957, an Inter-Regional Signalmen Gang with Maintenance of Way Trackmen unloaded from work trains telegraph poles, crossarms and hardware at various points in Carrier's so-called Western Region where communication lines and poles had been damaged by a severe sleet storm on April 3, 1957. Emergency repairs had been completed and service was restored on April 12, 1957.

The Claimants held various assignments as Signal Foreman, Signal Maintainer, Signalman, Assistant Signalman and Maintainer Test in the Logansport District of the Northwestern Region with a regular assigned work-week of Monday through Friday and rest days of Saturday and Sunday. Their claim is based on the contention that the assignment of the Inter-Regional Signalmen Gang to the work of unloading the telegraph poles, cross arms and hardware on the claim dates instead of the Claimants who were available for such work on those dates violated Items 7 and 8 of the parties' Western Region Agreement dated November 10, 1945.

Carrier contends that the assignment of the Inter-Regional Signalmen Gang to the work mentioned was authorized by Item 6 of the Western Region Agreement referred to and did not violate Items 7 and 8 thereof.

The provisions of the Western Region Agreement referred to in this dispute read as follows:

"6. The Regional Telegraph and Signal Gangs may perform construction, reconstruction and general repair work in connection with telephone and telegraph systems, including lines overhead or underground, poles and fixtures, relays, transformers, arresters, distributing blocks, wires or cables (including cable splicing) pertaining to such telegraph and telephone systems; storage battery plants with charging outfits, with switchboard equipment, substations and current generating plants as used for the operation of telephone and telegraph systems, telegraph instruments, telephones, printers, tele-

type machines, telautographs, loud speakers, amplifying equipment, ringers, selectors, pneumatic tubes, jack boxes, test panels, model boards, keys, sounders and other similar apparatus used in connection with telegraph and telephone systems and also wires and cables carrying any signal circuits on pole lines. (Emphasis ours.)

"7. The Regional Gangs may perform signal work in connection with construction, reconstruction and general repair work on signal apparatus at any point in the Western Region, when all available employees in the Division seniority district involved are employed. (Emphasis ours.)

"8. This Agreement shall not restrict the work which may be performed by Division forces in accordance with the provisions of the Agreement effective June 1, 1943."

In effect, the Employees base their claim here on the contention that the terms of Items 7 and 8 of the Western Region Agreement gave Claimants the exclusive right to the disputed work because they were available to perform it.

It is clear that the telegraph poles, cross arms and hardware unloaded from the work trains on the claim dates were for use in "construction, reconstruction and general repair work in connection with telephone and telegraph systems, including lines overhead or underground, poles and fixtures . . ." which is the work that the Inter-Regional Signalmen Gangs are expressly authorized to perform in Item 6 of the Western Region agreement. While under Item 7 of that agreement Regional Gangs are restricted to the performance of the work stated in that Item "when all available employees in the Division seniority district involved are employed," we are not persuaded that the unloading of telegraph poles, cross arms and hardware for use in work expressly described and authorized for Regional Gangs in Item 6 can be regarded as encompassed within the performance of "signal work in connection with construction, reconstruction and general repair work on signal apparatus" which is the work stated and described in Item 7.

Nor does Item 8 of the agreement referred to grant Claimants any exclusive right to the disputed work. That Item assures the Division forces that the Western Region agreement does not restrict their right to perform work "in accordance with the . . . Agreement effective June 1, 1943."

For all of these reasons, we find that the claim must be denied.

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 not violated.

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AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schuly
Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1963.