

Award No. 12626

Docket No. SG-12107

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

David Dolnick, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

HUDSON AND MANHATTAN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Hudson and Manhattan Railroad Company:

On behalf of Signal Repairman J. Condon, with headquarters at Hudson Terminal, 4 P. M. to 12 M. N., work week Monday through Friday, rest days Saturday and Sunday, for eight (8) hours at the Signal Repairman's rate of pay for Tuesday, May 26, 1959, when and because Instrument Repairman A. Davies was performing Signal Repairman's work in violation of Rule 5 and others of the Signalmen's Agreement, by making and adding circuit changes in back of the U. R. Interlocking Machine at Hudson Terminal. [Time Claim No. 131.]

EMPLOYEES' STATEMENT OF FACTS: The claimant in this dispute, Mr. J. Condon, was assigned to a Signal Repairman position with headquarters at Hudson Terminal, 4 P. M. to 12 Midnight, work week Monday through Friday, rest days Saturday and Sunday.

On Tuesday, May 26, 1959, the Carrier required and/or permitted Signal Instrument Repairman A. Davies to make and add circuit changes in back of the U. R. Interlocking Machine at Hudson Terminal.

As the classification rules of the current Signalmen's Agreement differentiate between the duties of a Signal Instrument Repairman and a Signal Repairman, Mr. James J. Reese, General Chairman, presented the following claim to Mr. A. D. Moore, Superintendent Signal System and Way, on May 30, 1959:

"Formal claim is hereby submitted.

Claim is filed by the General Committee of the Brotherhood of Railroad Signalmen, in behalf and favor of Signal Repairman J. Condon, with Headquarters at Hudson Terminal, 4 P. M. to 12 M. N.,

In Award No. 6288, this Division recognized that there had been a technical violation of the Scope Rule, in that work which should have been assigned to a Telegrapher was assigned to an employe outside of the craft. Nevertheless, this Division did not allow the claim, but indicated that in spite of the technical violation involved, the claim should be denied on the ground that the Organization had not shown that as a result of the violation any of its members had actually been deprived of compensation or suffered any loss. In similar circumstances (Award No. 6417) this Division rules as follows:

"Under these circumstances we are of the opinion that there has been a technical violation of the rules resulting in no loss to the claimant and he is therefore entitled to no penalty: . . ."

Certainly in the claim under consideration, where it is not even asserted that work was removed from the scope of the applicable agreement, there should be no recovery in the absence of proof of loss. In any event, the Organization has not shown any violation of the agreement and, therefore, the claim should be denied.

CONCLUSION

Carrier submits that the employe's claim is without merit, and should be denied.

OPINION OF BOARD: The issue is whether Carrier violated the Agreement when an Instrument Repairman was required to make and add circuit changes in back of the Interlocking Machine at the Hudson Terminal.

Petitioner contends that the Instrument Repairman performed Signal Repairman's work in violation of Rule 5 of Article I of the Agreement. This Rule reads:

"RULE 5 — Signal Repairman

An employe who is qualified and assigned to perform construction, repair, tests and maintenance work within the Scope of this Agreement shall be classified as a Signal Repairman."

The Scope Rule 1 of the Agreement provides as follows:

"This agreement covers rates of pay, hours of service and working conditions of the employes classified in Article I of this Agreement, all of whom are engaged in the installation, construction, repair, testing and maintenance of signals and interlocking plants and their functional appurtenances; high and low tension signal circuit conductors; signal conduit and air lines used exclusively for signal purposes; and all other work in connection with installation and maintenance thereof that is generally recognized as signal work."

Rule 3 of Article I says:

"RULE 3 — Signal Instrument Repairman

An employe who is regularly assigned to perform the work of inspecting, testing and repairing signal apparatus and appliances, shall be classified as Signal Instrument Repairman."

There is nothing in the Agreement which prohibits an Instrument Repairman from making and adding circuit changes in back of an Interlocking Machine. The Scope Rule does not restrict the work of an Instrument Repairman in the manner presented by Petitioner. If such a restriction was contemplated by the parties, it should have so provided in Rules 3 and 5 of Article I. Rule 7 of Article I which defines the work of a Signal Repairman's Helper provides for such a restriction. This Rule specifically says: "A Signal Repairman's Helper as such shall not be assigned to do work recognized as that of other classes covered by this Agreement."

On the basis of the record, we conclude that there is no merit to the claim.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of June 1964.