

Award No. 12652
Docket No. SG-12579

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

ERIE RAILROAD COMPANY

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

In behalf of Signal Maintainer S. Sczerba and Maintainer Helper L. LaBarr for thirteen (13) hours' overtime each at the time and one-half rate, account of their being improperly relieved by track forces to perform snow removal at remote controlled switches in and around Otisville Tunnel and Howells Jct., on Sunday, February 14, 1960. [Carrier's File: No. 155.1-4, SM Item 91]

EMPLOYEES' STATEMENT OF FACTS: Signal Maintainer S. Sczerba and Maintainer Helper L. LaBarr, the claimant in this dispute, are the regular assignees to a signal maintenance territory which includes the maintenance of remote controlled switches in and around Otisville Tunnel and Howells Jct.

On Sunday, February 14, 1960, at about 1:40 A.M., Signal Maintainer Sczerba and Maintainer Helper LaBarr were called to Howells Jct., account No. 51 remote controlled switch reported not operating properly.

On investigation it was determined that the failure was due to snow and ice formations accumulating in the switch points and rods of No. 51 remote controlled switch. Signal Maintainer Sczerba and Maintainer Helper LaBarr cleaned the snow and ice from the switch points and rods of No. 51 remote controlled switch and the switch operated properly.

After clearing the trouble on No. 51 remote controlled switch, Signal Maintainer Sczerba and Maintainer Helper LaBarr cleaned the snow and ice from the switch points and rods of all other remote controlled switches at Howells Jct. and then returned home.

At about 5:50 A.M. claimants Sczerba and LaBarr were again called account No. 55 remote controlled switch at Otisville Tunnel being in trouble.

They reported to Otisville Tunnel and found that No. 55 remote controlled switch trouble was due to snow and ice accumulations. The claimants

Carrier reiterates that Petitioner by this claim is trying to write into the agreement a condition that it has never heretofore enjoyed. Under the weight of the authorities previously cited (Award 8538, 8564, 8676) this claim must fail on this count alone.

Based upon the fact and authorities cited, Carrier submits that this claim is totally without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: On February 14, 1960, the Claimant and his helper were called at 1:40 A.M., 5:50 A.M. and 5:40 P.M. to correct failures of remotely controlled switches; on each occasion the cause was found to be an accumulation of snow and ice. They were relieved from duty resulting from the 5:50 A.M. call at 9:30 A.M. and the 5:40 P.M. call at 10:00 P.M. by track department laborers who kept the switches free of snow and ice.

The Petitioner contends that the use of the track laborers in this instance was violative of the controlling agreement.

It will be noted that the Claimant was called for each instance of switch failure and that the track laborers were not used to correct such failures nor to perform any mechanical or electrical function. Track laborers were used only to keep switches free of snow and ice after this had been established to be the cause of failures.

This question is not new to this Board and we hold with a line of decisions in Awards Nos. 10422, 11759, 11760, 11761 and 11762 involving the same Petitioner and a Scope Rule not dissimilar to that here involved insofar as this question is concerned. On the basis of these facts and precedents this claim will 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June 1964.