

Award No. 13133

Docket No. SG-11847

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago and Illinois Midland Railway Company that:

(a) The Chicago and Illinois Midland Railway Company violated the Signalmen's Agreement effective July 1, 1946, Revised and Reprinted October 1, 1951, as amended, when it failed and/or refused to apply the Scope (Article One), Classification (Article Two), and the work definition spelled out in Rule 3 of the Agreement, as well as the rules covering Hours of Service, Call, Bulletin, Assignment, Promotion, Seniority, and other rules of the Agreement, by not assigning the radio work, which is specifically spelled out in Rule 3 of the Agreement, to employees covered by the Agreement.

(b) E. I. Ball, Foreman, and T. J. Fernandes, Leading Signalman-Inspector, be allowed an adjustment in pay for an amount of time at the straight time rate for an amount of time equal to that performed by employees not covered by the Signalmen's Agreement while performing the work of installing, repairing, fitting-up, wiring, and the maintenance of all radios and their appurtenances and appliances since July 1, 1958, until such time as the work is properly returned to employees covered by the Signalmen's Agreement. [Carrier's File: 013.294]

EMPLOYEES' STATEMENT OF FACTS: Prior to August 28, 1958, the Carrier assigned Shop Electricians to perform work in connection with the installation and maintenance of train radio equipment. Shop Electricians hold no seniority or other rights under the Signalmen's Agreement.

Mr. E. I. Ball, Foreman, and Mr. T. J. Fernandes, Leading Signalman-Inspector, who are covered by the Signalmen's Agreement, submitted daily time reports, Form 48B056, dated August 28, 1958, each claiming one hundred and twenty (120) hours. These forms contained the following explanation:

"Time claimed for violation of Signalmen's Agreement, due to work performed by Shops Electricians at Springfield, Illinois."

Mr. T. J. Fernandes, Local Chairman, presented the following claim, dated August 28, 1958, to Mr. H. D. Hahn, Assistant to Chief Engineer:

"On behalf of Foreman E. I. Ball and myself Leading Signalman-

(Exhibits not reproduced).

OPINION OF BOARD: This claim is presented by the Brotherhood of Railroad Signalmen, for compensation for work performed by the Brotherhood of Electrical Workers, in alleged violation of Claimant's agreement with the Carrier. It is clear in cases of this nature, that we are not ruling on the relative merits of the various Brotherhood Agreements. We are concerned with the interpretation and application of the agreement existing between the Carrier and the Claimant in this case. It is no concern of ours what other agreements the Carrier has entered into with other crafts. We are called upon to determine if there has been a violation of the agreement involved in the instant claim.

The Organization relies on Rule 3-B. (a) which reads as follows:

"B. Signal Department:

Construction reconstruction, repair and maintenance of—

(a) Electric, electro-pneumatic, pneumatic, electro-mechanical or mechanical interlocking systems; semaphore, color light, position light or color position light signals and signaling systems; electric, electro-pneumatic, pneumatic, mechanically operated signals and signaling systems; car retarder systems; centralized traffic control systems; highway crossing protective devices; communication systems, including radio, telephone, and telegraph lines and equipment and office equipment; Buffer type spring switch mechanisms when used in main line or in automatic signal or centralized train control territories."

Carrier argues that Rule 3-B. (a) is limited by the language of the Scope Rule, and that such language excludes rolling stock. We do not find such exception in the rule, and have been unable to determine any logical basis for even an implication of such theory.

The language of Rule 3-B. (a), "communication systems, including radio," seems to us to clearly cover the subject of this dispute. We find nothing to eliminate radios on rolling stock from this language.

We hold that the Carrier had the duty to use the signalmen in the installation of the radios involved.

There is some question concerning the maintenance of these radios. We hold that the Carrier had the right to contract out the maintenance involved. As a result thereof, this award does not apply to anything other than the installation work.

There is also some dispute as to the number of hours consumed in the installation process. We hold that Claimants shall be paid compensation for an amount of time equal to that time actually consumed by those employees who performed this work, as reflected by the records of the Carrier. Such compensation to be at the straight time 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 ap-

proved 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 sustained as per Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

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

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Interpretation No. 1 to Award No. 13133

Docket No. SG-11847

Name of Organization:

BROTHERHOOD OF RAILROAD SIGNALMEN

Name of Carrier:

CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY

Upon joint application of the parties involved in the above award, that this Division interpret the same in the light of the dispute between the parties as to its meaning, as provided for in Section 3, First (m) of the Railway Labor Act, approved June 21, 1934, the following interpretation is made:

The area of dispute appears to be in regard to the maintenance of the radios in this case.

The following statement was made in our award:

"There is some question concerning the maintenance of these radios. We hold that the Carrier had the right to contract out the maintenance involved. As a result thereof, this award does not apply to anything other than the installation work."

In interpreting this language, we must keep in mind that this claim was processed on the theory that all maintenance work involved therein was contracted out by the Carrier, because there was no employe who was licensed and qualified to perform the work. It now appears that we should have spoken to those situations where we have a kind of quasi-contracting procedure. That is, where the employes of another craft or class remove the radios for the outside contractors and then replace them, when they are returned by the contractor.

We hold that this award should be interpreted to mean that if the Carrier desires to contract out all of the maintenance work, it may properly do so. But, if it contracts out part of the maintenance work, then that portion which is left to be performed must be performed by those employes represented by the Brotherhood of Railroad Signalmen.

There are several conflicting and confusing evaluations of time and money involved in this case and presented in the record. We said in the award:

"We hold that Claimants shall be paid compensation for an amount of time equal to that time actually consumed by those employes who performed this work, as reflected by the records of the Carrier. Such compensation to be at the straight time rate."

We shall not attempt to refine this holding further, and we want to make it clear that this interpretation is not to be considered as approval for any of the computations submitted in the joint application.

Referee Don Hamilton, who sat with the Division as a member when Award No. 13133 was adopted, also participated with the Division in making this interpretation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of January 1966.