

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Hamilton, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

FLORIDA EAST COAST RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Florida East Coast Railway Company:

(a) That the Carrier violated the Signalmen's Agreement on September 17, 1960, when Inspector J. E. Knight, an employe not covered by the Signalmen's Agreement, opened the disconnect switches on high voltage signal lines at New Smyrna Beach, Florida.

(b) That Signal Maintainer J. C. Forson and Signal Helper H. H. Murray be compensated for four (4) hours at their respective overtime rates of pay account of Inspector Knight performing this signal work. [Carrier's File No.: 2]

EMPLOYEES' STATEMENT OF FACTS: On September 17, 1960, trouble developed in the Carrier's substation at Melbourne, Florida which affected its signal system between Daytona Beach and New Smyrna Beach, Florida. The Carrier called an Inspector, J. E. Knight, an employe not covered by the Signalmen's Agreement, to correct the trouble. The Carrier did not call the nearest available employes covered by the Signalmen's Agreement to correct the trouble. In fact, it does not claim that it called employes covered by the Signalmen's Agreement to correct the trouble.

There is no dispute that the work involved in this dispute is work covered by the Signalmen's Agreement. The Carrier tried, while the claim was being progressed on the property, to justify its action in this case by claiming that the nearest Signal Maintainer on duty was located too far away to be called.

On November 9, 1960, General Chairman J. E. Dubberly addressed a letter to Mr. R. L. Stephens, Superintendent C & S, in which he filed claims on behalf of Signal Maintainer J. C. Forson and Signal Helper H. H. Murray, the nearest Signal Department employes covered by the Signalmen's Agreement, who were not marked off duty at the time the work was performed, for four hours pay at the punitive rate. This letter is identified as Brotherhood's Exhibit No. 1.

Under date of November 17, 1960, Superintendent Stephens addressed a letter to General Chairman Dubberly denying the claim. Neither Mr. Stephens nor Mr. Dubberly requested that a conference be held on the claim. Superintendent Stephens' letter is identified as Brotherhood's Exhibit No. 2.

own actions in removing themselves from readiness for calls (see Carrier's Exhibit "A") and the fact that the source of the malfunction of the signal system was found to be on Maintainer A. R. Hinkel's section and he reported for call and corrected the trouble. Consequently, there can be no possible basis for the claim.

For the reasons stated the claim is without merit and should be denied.

(Exhibits not reproduced).

OPINION OF BOARD: The train dispatcher at New Smyrna Beach, Florida, learned that the signals from New Smyrna Beach northward to Daytona Beach were inoperative, on Saturday, September 17, 1960. The train dispatcher called the home of the signal maintainer at Melbourne, but was advised that he was away at that time. All of the signal maintainers from Daytona Beach to Melbourne were registered off from 4:00 P. M., Friday, September 16, until 7:00 A. M., Monday, September 19, 1960.

Freight train No. 343, a 116-car train, was approaching the territory. The Train Dispatcher notified Signal Inspector J. E. Knight at New Smyrna Beach, and the inspector opened the sectionalizing line disconnect switches on the high voltage line at New Smyrna Beach, thereby restoring the signals to an operative condition, until repairs could be made. This prevented a delay to Freight Train No. 343. The cause of the trouble was subsequently determined to be located at the Melbourne power station, and the proper repairs were made at that location, by Signal Maintainer Hinkel.

The instant claim is presented as a result of Inspector Knight, who is not covered by the applicable agreement, opening the disconnect switches on the high voltage line.

The record contains considerable comment about the March 23, 1948 Letter of Understanding. The Carrier argues that this letter gives the inspectors the right to inspect signal apparatus in cases of this nature. It is the opinion of the Board that this issue is not at bar in this case, and we will not attempt to interpret that letter in this opinion.

This case is a proper example of a true emergency situation. The signals were not functioning; a 116-car train was approaching the territory; the signal maintainers were all registered off, and the Carrier made an attempt to locate an employe covered under the Agreement.

The Board has often held that a Carrier may take whatever action is appropriate to cope with an emergency situation. It appears to us that this is precisely what occurred in this case. Under these circumstances we do not find a violation of the Agreement.

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 Employes involved in this dispute are respectively Carrier and Employes 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 25th day of February 1965.