

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Louisville and Nashville Railroad Company:

(a) That the Carrier violated the Signalmen's Agreement, especially the Scope Rule, when, on February 14 and 15, 1961, it assigned or permitted employes not covered by the Signalmen's Agreement to unload signal material for use at the Decoursey Yard. The material unloaded consisted of line wire, switch box rods, ground rods, bond wires, parkway outlets, cross arms and other signal material to be used at the Decoursey Yard. The amount of time charged by the employes not covered by the Signalmen's Agreement account of performing the above work amounted to a total of 26 hours—10 hours on February 14, 1961, and 16 hours on February 15, 1961.

(b) That the Carrier be required to compensate the senior furloughed Signal Helper on the Cincinnati Division for 26 hours at the pro rata rate of pay account of the violation outlined in paragraph (a). (Carrier's File No. G-304-2; G-304)

EMPLOYEES' STATEMENT OF FACTS: On February 14 and 15, 1961, the Carrier assigned a Section Foreman and gang to unload signal material for a new yard installation at Decoursey, Kentucky. This material consisted of signal line wire, bond wires, parkway outlets, cross arms, and other items necessary for construction of the signal facilities at Decoursey.

The material in question was left over from a signal construction project near Chattanooga, Tennessee. This material had been in possession of signal forces for some time and was transported to Decoursey where track forces unloaded it. The material was for immediate and future use by signal forces installing the signal facilities at Decoursey.

In view of the obvious violation whereby the Carrier assigned employes not covered by the Signalmen's Agreement to perform work covered by the

ing systems; wayside devices and equipment for train stop and train controls; car retarders and car retarder systems; power operated gate mechanism; automatic or other devices used for protection of highway crossings; spring switch mechanism; electric switch targets together with wires and cables; train order signals in signaled territory and elsewhere within the limits of a signal maintainer's territory; power or other lines, with poles, fixtures, conduit systems, transformers, arresters and wires or cables pertaining to interlocking and signaling systems; interlocking and signal lighting; storage battery plants with charging outfits and switchboard equipment; substations, current generating and compressed air plants, exclusively used by the Signal Department, pipe lines and connections used for Signal Department purposes; carpenter, concrete and form work in connection with signal and interlocking systems (except that required in buildings, towers and signal bridges); together with all appurtenances pertaining to the above-named systems and devices, as well as any other work generally recognized as signal work."

As previously stated by carrier, the signal material was unloaded by section men for storage until such time as it was needed in connection with the construction of the new yard.

The unloading of signal material has not been considered the exclusive work of signal employes. It has been the practice for years for signal materials to be unloaded by train crews, freight house employes and section men into freight depots on line of road and stored there until it was used by signal employes.

The Board has held that the handling of signal material to be used by signalmen at some future time is not exclusively signalmen's work. See Third Division Awards 3826, 3689, 4797, 4978 and 5046.

In view of the circumstances involved, there is no basis for the employees' claim, and same should be denied.

OPINION OF BOARD: This claim involves section men unloading signal material February 14 and 15, 1961, from the car in which it had been shipped to the Carrier's freight yard at Decoursey, Kentucky, for use in the construction of signal facilities at the yard.

The Petitioner contends:

"The material in question was left over from a signal construction project near Chattanooga, Tennessee. This material had been in possession of signal forces for some time and was transported to Decoursey, where track forces unloaded it. The material was for immediate and future use by signal forces installing the signal facilities at Decoursey."

The Carrier counters:

"The material in question was not shipped from a signal construction project near Chattanooga, but was material in the General Stores Department stock. It was loaded at the Stores Department at Louisville, Kentucky, by Stores Department employes; the material had not been in possession of signal forces as contended

and the material was not sent to Decoursey for immediate use. As a matter of fact, the materials unloaded on February 14 and 15, 1961, as stated by carrier at page 2 of its submission, was not used until the early part of June, 1961, when a signal gang was formed to perform signalmen's work in the new yard."

It is apparent that there is a complete conflict of facts. This Board has often held that it cannot resolve such conflicts, and that such claims should be dismissed.

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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of May 1965.