

Award No. 13868

Docket No. SG-13602

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company et al.:

On behalf of Signal Foreman J. V. Hester; Leading Signalman C. R. Vaught; Signalmen Lamar Strickland and A. T. Valentour, for eight (8) hours each at their respective overtime rates of pay to compensate them for the man hours of signal work (installing a buffer type spring switch operating device, switch box operating rod, model 7 switch circuit controller, switch point lug, and two spring switch marker light signals) performed on or about April 3 and 4, 1961, by a contractor (Brooks-Allison Company of Atlanta, Georgia) and his forces. This signal equipment was installed on the switch where Track No. 2 enters Track No. 3 just south but outside of the engine repair building at Pegram Shops in Atlanta, Georgia.

[Carrier's File: SG-16739]

EMPLOYEES' STATEMENT OF FACTS: As indicated by the Statement of Claim, this dispute is based on the Carrier's action of permitting a contractor and his forces to perform certain work on or about April 3 and 4, 1961. That work consisted of the installation of a buffer type spring switch operating device, other switch appurtenances, and two spring switch marker light signals. These appurtenances were taken from a Signal Gang and Signal Maintainer's tool house headquarters to the Pegram Shop by Mr. John Mattison, a Carrier official, who supervised the contractor's work. The work was performed on Carrier's property, near the Pegram Shops, Atlanta, Georgia. The contractor's forces who performed the work hold no seniority or other rights under the Signalmen's Agreement.

Inasmuch as the Scope of the current Signalmen's Agreement includes the construction, installation, maintenance and repair of various types of signal apparatus, including buffer type spring switch operating mechanisms, as well as all other work generally recognized as signal work, the Brotherhood's General Chairman presented a claim on behalf of the named signal employees for eight hours' overtime pay each, to compensate them for the work performed by the contractor and his forces. The General Chairman's

The reasoning of the Board in the above disputes should be followed in this dispute.

Furthermore, the Board has recognized on numerous occasions that work contracted is to be considered as a whole and may not be subdivided. The Board in Third Division Award 5304, Referee Wycoff, held that:

"The work contracted out is to be considered as a whole and may not be subdivided for the purpose of determining whether some parts were within the capacity of the carrier's forces (Awards 3206, 4776 and 4954)."

In Third Division Award 5563, Referee Elson, the Board held that:

"Third, the work contracted out is to be considered as a whole and may not be subdivided for the purposes of determining whether some of it could be performed by the employees of the carrier. (See Awards 3206, 4476, 4954 and 5304)."

In Third Division Award 6112, Referee Messmore, the Board held that:

"The work to be contracted out is to be considered as a whole and may not be subdivided for the purpose of determining whether some of it could be performed by the employees of the carrier. See, Awards 3206, 4776, 4954, 5304 and 5563."

Carrier denies that the here involved work, which did not involve but a few hours (less than a day) is embraced in the scope of the Signalmen's Agreement, but points out that if it were covered by the agreement claim could not be valid under the principle of the above awards holding that work contracted out is to be considered as a whole and is not to be subdivided for the purpose of determining whether some parts of it could be performed by carrier's forces.

Thus, the evidence is conclusive that the claim is not supported by the effective agreement and that the claimants do not have any contract right to be paid the compensation here demanded.

CONCLUSION

Carrier has shown that:

(a) Part of the claim is barred and should be dismissed by the Board for want of jurisdiction.

(b) Claim is not supported by the effective agreement.

Claim being without basis and unsupported by the agreement, the Board has no alternative but to dismiss that part which is barred and deny the remainder thereof.

(Exhibits not reproduced.)

OPINION OF BOARD: The record in this claim does not establish that the work here involved is that work on buffer type spring switch operating mechanisms which is generally recognized as signal work. Failing of proof, the claim will be dismissed.

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 approved June 21, 1934; and

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 30th day of September 1965.