

Award No. 16070

Docket No. SG-16246

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

FORT WORTH AND DENVER RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Fort Worth and Denver Railway Company:

On behalf of General CTC Maintainer G. W. Camp, Wichita Falls, Texas, for two (2) hours and forty (40) minutes overtime pay account other than signal forces installed an electrical outlet in yard office at Wichita Falls on November 30, 1964.

[Carrier's File: SG-23]

EMPLOYES' STATEMENT OF FACTS: On November 30, 1964, a regularly assigned work day for Claimant Camp, Carrier arranged for a contractor to install an electrical outlet in the yard office at Wichita Falls, Texas. This outlet was an extension of the present wiring. The contractor's employe who performed the work is not classified in or covered by the Signalmen's Agreement.

As this work was performed on his territory and is similar to work he often performs, General CTC Maintainer submitted an overtime claim for two hours and forty minutes. Carrier's Auditor, K. P. Lucas, denied the claim December 15, 1964 on this basis:

"Claimant is precluded from performing service here complained of due to his lack of qualifications required by Wichita Falls, Texas, City Ordinance No. 1687, wherein such work must be performed by licensed electrician."

(Wichita Falls City Ordinance No. 1687 was repealed, and Ordinance No. 2022 adopted in its place in 1963 — this fact was brought to Carrier's attention during subsequent handling of the instant dispute on the property.)

As Claimant Camp is also the Brotherhood's Local Chairman, he presented an appeal from the Auditor's decision to Carrier's Superintendent of Communications and Signals on January 4, 1965. The claim was subsequently handled in the usual and proper manner on the property, up to and including the highest officer of the Carrier designated to handle such disputes, without receiving a satisfactory settlement. Pertinent correspond-

ence exchanged on the property is attached hereto as Brotherhood's Exhibit Nos. 1, 2, 3, 4, and 5.

There is an agreement in effect between the parties to this dispute, bearing an effective date of November 1, 1946, as amended, which is by reference thereto made a part of the record in this dispute.

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: On November 30, 1964, the claim date, the Carrier arranged for Oechsner Electric Company of Wichita Falls, Texas to install a 220-volt electrical outlet in the yard office. This was a new installation, and by city ordinance it required the services of a licensed electrician. The claimant was not a licensed electrician, nor did the Carrier have any electricians licensed by the City of Wichita Falls to perform the service on the claim date. It was, therefore, necessary to contract with Oechsner Electric Company, who had licensed electricians employed by them, to make this installation.

The claim, as stated by the Committee, is for 2 hours and 40 minutes. The claimant is a monthly rated employe who was fully employed and lost no time or compensation due to performance of this work by a contractor.

The agreement between the parties to this dispute, revised effective November 1, 1946, is by reference made a part of this submission.

OPINION OF BOARD: The Carrier engaged the services of an outside independent contractor to install a new electrical outlet in their yard office located within the city limits of Wichita Falls. Claimant, although fully employed by the Carrier on the date of the installation, has submitted a claim for 2 hours and forty minutes' overtime pay, alleging that this was essentially work belonging to him and coming within the Scope Rule of the Agreement.

The Carrier contends and presents substantial evidence to the effect that a City Ordinance requires the licensing of an individual before he installs, maintains, or repairs any "electrical appliances, apparatus and devices." Claimant in this case did not possess the requisite license, whereas the independent contractor did. If the Carrier had allowed the Claimant to install the outlet, it would have been violating the local Ordinance. It is axiomatic that Collective Bargaining Agreements must of necessity be interpreted in consonance with existing laws and regulations. To rule otherwise would be subjecting the corporate entity, the Carrier, to a multiplicity of suits, which could only result in complete chaos.

The identical issue was presented to this Board in Award No. 12970 (Hamilton), involving the same parties. A denial award was issued in that case. We accordingly re-affirm that decision and its reasoning and will deny the Claim.

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 29th day of January 1968.