



Award No. 16129
Docket No. SG-15968

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN RAILWAY COMPANY

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

(a) The Carrier violated the current Signalmen's Agreement, as amended, when on October 8 and 9, 1964, it used officials in the performance of signal work.

(b) All signal employees listed below —

J. F. Bost	B. W. Smith
B. L. Roark	G. A. Pritchett
V. D. Young	G. C. Morris
D. D. Blackwell	L. E. Sartain
	J. W. Stinnett

together with other signal employees listed in Carrier's October 21, 1964 letter commending them for their work in connection with movement of CTC machine from Alexandria to Greensboro —

be compensated on a proportionate basis, at their respective overtime and double-time rates of pay, for all hours worked by the 22 officials between the hours of 9:30 P.M., October 8 and 7:30 A.M., October 9, 1964, based on proper overtime and double-time applicable to those entitled to the work which was performed by the officials, in accordance with applicable rules of the Signalmen's Agreement. (Carrier's File: SG-20818.)

EMPLOYEES' STATEMENT OF FACTS: This claim is a result of the diversion of Scope work. On October 8 and 9, 1964, the control machine of a Centralized Traffic Control System was moved from Alexandria, Virginia to Greensboro, North Carolina. Carrier officials were used in the performance of a part of the Signal work in connection therewith.

P. D. Yelton and S. J. Myers, was not presented within the required period and is, therefore, barred and we are not waiving the bar.

As already explained to you, no work embraced in the scope of the Signalmen's Agreement was performed by other than signal employees between 9 P.M., October 8 and 7:30 A.M., October 9, 1964. And, in this connection, I note you have not identified the work allegedly performed in violation of the agreement.

As part of the claim is clearly barred by the agreement, and as the remainder which is not barred is without basis, payment is declined."

On April 27, 1965 that part of the claim which the General Chairman had presented which was not barred by Article V of the agreement of August 21, 1954 was discussed in conference between Carrier's Director of Labor Relations and the Brotherhood's General Chairman, following which on April 28, 1965, Carrier's Director of Labor Relations wrote General Chairman E. C. Melton as follows:

"Reference is made to our discussion in conference on April 27 of the claim described by you as follows:

1. Claim of the Brotherhood of Railroad Signalmen that the use of officials on October 8 and 9, 1964, in performing signal work was in violation of the current signalmen's agreement.
2. That all signal employees listed in the second paragraph of this letter be compensated at their respective overtime and double time rates of pay for all hours worked by the 22 officials between the hours of 9:30 P.M., October 8 and 7:30 A.M., October 9, 1964, based on the proper overtime and double-time applicable to those entitled to the work that was performed by the officials, in accordance with the applicable rules of the agreement.'

As explained in my letter of February 9, claim on behalf of the persons identified in the third paragraph is barred, and we are not waiving the bar. Our discussion was with the understanding that the bar was not being waived. Despite the record, however, you refuse to concede that part of the claim is barred. When I asked that you identify the so-called signal work which you allege was performed you were unable to do so. This despite the fact that you as the proponent have the burden of doing so. Factually, no signal work was performed in violation of any provision contained within the four corners of the signalmen's agreement.

Part of the claim being barred and the remainder which is not barred being without basis, I confirm my previous declination of the same."

OPINION OF BOARD: On October 8, 1964, the train dispatching offices and territories of the Washington Division and of the Danville-Richmond Divisions were consolidated. In connection with this consolidation, it was

necessary to move the CTC control machine from Alexandria, Virginia, to the consolidated office at Greensboro, North Carolina. The machine was moved on October 8th and 9th. While the machine was being moved, employees were stationed in bungalows on the Washington Division for a distance of over 150 miles and performed by hand the duties which would normally have been performed electronically by the train dispatcher had the CTC system been in operation: they lined power operated switches and cleared signals by hand and operated code relays for train operations as directed by the train dispatcher at Alexandria. Signal employees covered by the Agreement performed this work on October 8th from about 4 P.M. to 9:30 P.M. and on October 9th from 7:30 A.M. to about 11 A.M.; from 9 P.M. on October 8th until 7:30 A.M., on October 9th, Carrier officers relieved the signal employees and performed this work.

It is the contention of the Brotherhood that under the Agreement only employees covered by the Agreement should have been assigned to perform the work, since it was signal work reserved to Brotherhood under the Agreement.

It is Carrier's contention on the merits that the involved work is not reserved to Brotherhood under the Agreement. The pertinent portion of the Agreement describing the signal work reserved to employees covered by the Agreement reads:

"Signal work shall include the construction, installation, maintenance and repair of signals, either in signal shops, signal store-rooms or in the field; signal work on generally recognized signal systems, wayside train stop and wayside train control equipment; generally recognized signal work on interlocking plants, automatic or manual electrically operated highway crossing protective devices and their appurtenances, car retarder systems, buffer type spring switch operating mechanisms, as well as all other work generally recognized as signal work."

There is no evidence in the record that the involved work is "generally recognized as signal work"; nor is it self-evident that the involved work in itself is the construction, installation, maintenance or repair of signals, even though it is a fact that it was required to be performed because of and in connection with a signal installation. Brotherhood's argument appears to rest on the idea that the involved work was "signal work" because it was incidental to, caused by and related to the move of the CTC control machine, the dismantling and reinstallation of which are such "signal work" as is described in the Scope Rule. But we find no evidence that the involved work was so intimately related to the admittedly "signal work" as in the normal course to make its performance inseparable from the performance of that "signal work." Thus, since it is not self-evidently "signal work," we cannot here find that it is such work as is reserved exclusively for performance by Brotherhood.

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of March 1968.

DISSENT TO AWARD NO. 16129, DOCKET NO. SG-15968

The Majority, Carrier Members and Referee, have reached an erroneous conclusion in Award No. 16129.

In the opening paragraph of their opinion, the Majority correctly set out the facts of record, but in the ultimate paragraph they start going astray by holding that there is no evidence in the record that the involved work is generally recognized signal work and that it is not self-evident that the involved work in itself is the construction, installation, maintenance, or repair of signals, "even though it is a fact that it was required to be performed because of and in connection with a signal installation."

The Carrier had determined to consolidate certain of its operations, including the control of its CTC system, necessitating the removal of its CTC control machine at Alexandria, Virginia, and the reinstallation of that machine at Greensboro, North Carolina. It is evident from the record that the Carrier had also determined that it would nevertheless continue to, and in fact did, move its trains by signal indication and control during the time the control machine was being moved. This it accomplished by manual manipulation of signal relays and circuits in the field.

The Majority should have taken into account the fact that the disputed work was not necessary to move trains; they could, for example, have been moved by train order. However, the Carrier, having arbitrarily determined to move them by its signal system, the disputed work became necessary in order to permit moving the control machine and therefore was signal work within the meaning and intent of the Signalmen's Agreement.

The Majority has clearly erred; therefore, I dissent.

W. W. Altus
For Labor Members

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