

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, 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) Carrier violated the current Signalmen's Agreement, as amended, when, on or about July 29 and 30, 1965, it secured a contractor with a foreman and four other employees to furnish and set six signal line poles in the signal transmission line at or near Haire, (sic) Georgia.

(b) Messrs. G. T. Lawson, C. Lindsey, A. R. Davis, F. Beck, J. R. Moses, R. H. Pearson, L. G. Headden, and Z. R. Lawson be paid at their respective overtime rates of pay, on a proportionate basis, for all time in man-hours that the contractor's forces were used to perform signal work in the signal transmission line while digging pole holes and setting six (6) poles on July 29 and 30, 1965 — two (2) eight-hour days, or a total of eighty (80) man-hours of signal work.

(Carrier's File: SG-22114.)

EMPLOYEES' STATEMENT OF FACTS: This dispute, like others from this property, of which some have been decided by the Division and several are awaiting adjudication, involves the performance of Signal Work by persons not covered by the Signalmen's Agreement.

In connection with the construction of a new industry at Hair, Georgia, on Carrier's Lines West, a spur track was built. Along this line of road there are separate pole lines for the Signal and communication lines. The communication pole line is located between the Signal pole line and the tracks; it had to be relocated in order to build the spur track. To accomplish this, certain poles in the Signal pole line were replaced with ones tall enough to accommodate the Signal wires and the communication lines, as well.

Using a foreman and four (4) other employees for eight (8) hours each on both July 29 and 30, 1965, the contractor dug holes and set poles necessary for the line changes. Afterwards Signal forces transferred the Signal wires from

OPINION OF BOARD: Carrier's trackage near Dalton, Georgia was bounded on one side by two parallel lines, one a communications line and the other a signal line. A portion of the communication line had to be moved when Carrier decided to run a spur track on its site. This required the raising of several new poles for the communication lines. Carrier decided that signal lines should be added to the new poles as well, transferring them from their existing location. On July 29, and 30, 1965 Carrier's Communication Department installed the new poles, and had communication workers transfer communication lines from the abandoned communication line poles to the newly erected joint poles. On the same date Signal employees transferred signal lines from former poles to the new joint poles.

Organization contends that the raising of poles on which signal lines are to be installed is clearly Signal work comprehended by the Scope Rule of the parties' Agreement. It adds further that when work of this type is done on lines West it accrues exclusively to Signal employees. Accordingly, it seeks compensation for the work denied it by the Carrier's violation.

Carrier relies on its managerial right to have work performed in the most efficient and most economical manner. It points out that there is nothing in the Agreement which gives signalmen the exclusive authority to erect the poles needed in the instant situation, and that these poles were properly set up by order of the Communications Department. Inasmuch as claiming signalmen had no contractual right to the pole setting work and were, indeed, fully employed at the time, it concludes their claim for compensation should be denied.

The facts in this case are undisputed. Carrier, in endeavoring to lay a spur line, found it necessary to relocate communication lines onto new poles and while so doing decided to consolidate signal lines onto the same set of poles.

The essential question is whether signalmen had rights to the pole raising work which preceded the transfer of the signal lines, as they so claim. The parties' Scope Rule does give signalmen jurisdiction over construction, installation, maintenance, and repair of signals. Carrier argues that the poles were installed for the benefit of communication lines and that signal lines were added for convenience.

This Board has held that where two groups have a valid claim to do pole raising work which had been contracted out, the failure of one group to file a claim does not preclude the other from so doing. (Stark 11733.) But the instant case involves the raising of a new set of poles which are to be used jointly for the first time rather than the relocation of poles which had previously been used in common. There the poles were installed primarily for the benefit of the communications department. Had the Carrier decided to leave the signal lines in their existing location there would have been no justifiable claim. But for convenience as well as to raise the existing signal lines to clear the top of a proposed new building, Carrier determined that signal lines were to be moved. If Carrier had undertaken to make this change for signal lines without changing communication lines three new poles would have to be installed, one on either side of the proposed building and one to the west thereof. Accordingly we find that the raising of these three poles was essential to the signal line change, and should have been done by Signalmen.

Turning to the question of remedy, we find it consistent with prior awards of this Board between these same parties to award pro rata damages for the work improperly denied signalmen. (11733, 15888, 14371, 16335, 16338.)

The Claimants were entitled to install three of the poles rather than the six claimed, and accordingly an award in the amount of 40 rather than the 80 hours claimed, is made, to be distributed among the named Claimants. Inasmuch as there is no showing that this work would have had to be done on overtime, we find that a pro rata award at straight time rather than at time and a half is appropriate.

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 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 violated.

AWARD

Claim sustained to the extent indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of June 1968.