

Award No. 16437
Docket No. SG-14478

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Nicholas H. Zumas, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN
NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Northern Pacific Railway Company that:

(a) The Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, Rule 1, when it allowed the General Railway Signal Company to do the fitting up and wiring of relay cases A and B and bungalows Nos. 1, 2 and 3 for the automatic interlocking installation at 15th Street, Tacoma, Washington, on the Tacoma Division.

(b) The Carrier be required to pay the employees listed below and any qualified Signalman, Foreman or Inspector unintentionally omitted from the list in equal and proportionate shares, at their respective pro rata rates of pay, the amount of time which has been estimated was required to perform this work—or a total of eight hundred and twenty-five (825) hours. The named Claimants are as follows:

SIGNAL GANG NO. 1

M. O. Lee	Signal Foreman	1- 3-45
W. D. Eslinger	Signalman	10-20-55
W. T. Price	Signalman	1- 3-56

SIGNAL GANG NO. 2

A. J. Wonders	Signal Foreman	12-27-48
J. R. Gibson	Leading Signalman	9-13-50
B. N. Clement	Signalman	3-10-52
R. G. Hillebrant	Signalman	7-25-55
O. D. Foreman	Signalman	2-18-54
D. W. James	Signalman	9-21-53

SIGNAL MAINTAINERS

H. D. Hofstater	5-16-46
A. B. Snook	7-19-22
A. C. Peterson	1-22-29
W. R. Carnes	7-17-50

SIGNAL INSPECTORS

J. T. Keough	1-27-36
G. L. Flagan	2-18-46

EMPLOYEES' STATEMENT OF FACTS: On April 12, 1962, the Carrier put an NX interlocking plant in service at Tacoma, Washington. This modern facility replaced the mechanical interlocking plant at 15th Street and provided other interlocking facilities elsewhere in the vicinity of its depot yard at Tacoma. An Order from the ICC, dated April 12, 1962, which describes the installation, is reproduced as Brotherhood's Exhibit No. 1.

The Carrier contracted out or otherwise allowed the General Railway Signal Company to do the fitting up and wiring of relay cases A and B, bungalow Nos. 1, 2 and 3 and the apparatus and relay racks for the control tower.

Cases A and B and bungalows 1, 2 and 3 were received from the signal company with almost all of the equipment installed and they were wired. Only the relays were not mounted, but the nametags had been stencilled on them at the factory.

The racks for the control tower were received with all equipment mounted except for the transformers and heavy rectifiers. The track rectifiers were factory mounted. All B relay plugboards were mounted with only the relay retaining bolts left off. The relay racks were completely wired from the relays to a termination block at the top of each. The apparatus racks were received with all inter-rack wires run and terminated. All inter-rack connections had been made up into two harnesses ready to install in order to connect the entrance rack, apparatus racks, relay rack and application relay racks together. Rack Nos. 2 and 3 are the application relay racks, and they were completely wired, but the A type relays were not installed. Photographs have been reproduced, and are included as Brotherhood's Exhibit Nos. 2, 3 and 4. Brief descriptions are shown on each exhibit which identify them as bungalow 1, bungalow 2, and control tower racks.

Inasmuch as the Scope of the effective Signalmen's Agreement specifically provides for "the construction, installation, maintenance and repair of * * * interlocking plants * * * relay housing and wiring; and appurtenances", Local Chairman C. Gower made claim on behalf of certain named and unnamed employes on the Western District for eight hundred and twenty-five (825) man hours to Mr. F. V. Sloop, Assistant Signal Engineer, under date of May 17, 1962. Mr. Gower's letter of May 17, 1962, is Brotherhood's Exhibit No. 5.

On July 9, 1962, the assistant signal engineer addressed a letter to the local chairman in which he denied the claim. (Brotherhood's Exhibit No. 6.)

A. B. Snook was assigned to an hourly rated position of signal maintainer, working from 7:00 A. M. to 4:00 P. M. Monday through Friday, with headquarters at Fremont, Washington.

A. C. Peterson was assigned to an hourly rated position of signal maintainer, working from 7:00 A. M. to 4:00 P. M. Monday through Friday, with headquarters at Puyallup, Washington.

W. R. Carnes was assigned to an hourly rated position of signal maintainer, working from 7:00 A. M. to 4:00 P. M. Monday through Friday, with headquarters at Tacoma, Washington.

J. T. Keough was assigned to a monthly rated position of signal inspector, the assigned territory of this position being the Idaho Division, with headquarters at Spokane, Washington.

G. L. Flagan was assigned to a monthly rated position of signal inspector, the assigned territory of this position being the Tacoma Division, with headquarters at Tacoma, Washington.

No employe who had acquired seniority as signal foreman, signalman or signal inspector was out of service on account of force reduction.

Rule 1 of the current agreement, effective April 16, 1950, as revised effective October 1, 1956, between the Northern Pacific Railway and Brotherhood of Railroad Signalmen reads:

"SCOPE.

Rule 1. This agreement governs the rates of pay, hours of service and working conditions of employes specified herein, engaged in the construction, installation, maintenance and repair of signals, signal power lines, pole line signal circuits, interlocking plants, mechanical switches and locking mechanism for spring switches in signalled territory, electrically operated highway crossing protective devices, automatic crossing gates, wayside train stops and train control equipment, slide detector devices connected with signal systems, blower, gas, electric or other types of automatic snow removing equipment permanently located at switches in signalled territory, car retarder systems, centralized traffic control systems; relay housing and wiring; and appurtenances connected with such systems; signal shop work; and such other work as is generally recognized as signal work."

The claim presented in behalf of employes who have acquired seniority on the Western District under the April 16, 1950 Signalmen's Agreement has been declined.

OPINION OF BOARD: Carrier contends that Petitioner's claim must be dismissed for failure to comply with the provisions of Article V of the August 21, 1954 Agreement, namely, that the claim was not filed within 60 days "from the date of the occurrence on which the claim or grievance is based."

Carrier purchased an NX (entrance-exit) interlocking system from the General Railway Signal Company which included bungalows, relay cases

and tower relay racks. These interlocking system components were fitted up and wired by the General Railway Signal Company at its factory, and shipped to Carrier's Tacoma yard for installation.

The record shows that installation of the interlocking system began on January 11, 1962. Claim was filed by Petitioner on May 17, 1962.

Petitioner asserts that the time limit rule cannot be considered for the following reasons:

- 1) Carrier did not raise the question on the property;
- 2) The date of occurrence of the dispute was April 12, 1962 — the date on which the ICC gave Carrier approval to put the new NX interlocking system in service.

With respect to Petitioner's first contention, the record shows that Carrier raised the time limit question on the property. Despite the fact that it was not considered by Carrier in the initial handling, the matter was raised by Carrier's final appeal officer in his letter of December 4, 1962 to the General Chairman. In that letter, Mr. G. M. Hare states:

"Bungalow No. 1 was installed at Tacoma on March 19, 1962. Bungalow No. 2 was installed at this location on January 11, 1962. Bungalow No. 3 was installed on March 19, 1962. Relay case 'A' was installed on March 14, 1962. Relay case 'B' was installed on January 11, 1962, and tower relay racks Nos. 1 to 9, inclusive, were installed in the tower during the period extending from February 26, 1962 to March 16, 1962, inclusive. These installations were made by Signal Department employees.

The first claim presented in behalf of Signal Department employees was on May 17, 1962. On this date Local Chairman C. Gower presented the claim in behalf of 15 Signal Department employees who have acquired seniority on the Western District for payment of a total of 825 hours to Assistant Signal Engineer F. V. Sloop. In connection with the claim presented in behalf of Signal Department employees, your attention is directed to Article V, Section 1 (a), of the August 21, 1954 Agreement which provides that all claims or grievances must be presented in writing by or in behalf of the employees involved within 60 days from the date of the occurrence on which the claim or grievance is based.

* * * * *

For the reasons herein stated the claim appealed in behalf of Signal Department employees who have acquired seniority on the Western District is not sustained by the rules of the Signalmen's Agreement or practice thereunder. Consequently, this claim is declined."

In Award 14355 (Ives), we said:

"Carrier did not waive its right to invoke the time limit provision by reason of its agents' initially passing on the merits of the dispute without raising the timeliness of the Claim as contended by

Employees. The issue of non-compliance with the requirements of Article V was raised by Carrier on the property before the filing of a notice of intent to submit the dispute to this Board. (Decision 5 of National Disputes Committee, dated March 17, 1965)."

Lastly, we cannot accept Petitioner's theory that the right to file a claim came into being on the day the ICC approved Carrier's petition to put the new NX interlocking system into service. The claim, if any, came into being when it became known that Carrier allowed the General Railway Signal Company to do work which allegedly belonged to the Signalmen. That day, according to the record, was January 11, 1962. Even Petitioner acknowledges this by the wording of the claim which begins:

"The Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, Rule 1, when it allowed the General Railway Signal Company to do the fitting and wiring * * *." (Emphasis ours.)

The claim must therefore 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; and

That the Claim is barred.

AWARD

The Claim is dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of June 1968.