



Award No. 16675
Docket No. SG-17018

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CENTRAL OF GEORGIA RAILWAY COMPANY

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

(a) Carrier violated the current Signalmen's Agreement, as amended, when it contracted with Union Switch & Signal Company to extend Centralized Traffic Control from Third Street, Macon, Georgia, to the East End of Rutland, Georgia; and, when, beginning on or about November 1, 1965, it had performed by persons not covered by the Agreement the Signal Work in connection with installation and changes necessary for such extension of the CTC System.

(b) Signal Maintainers - R. F. Stanfield, J. L. Gassett
Signal Foreman - T. J. Gassett
Leading Signalman - E. E. Murdock
Signalman - R. L. Johnson
Assistant Signalmen - A. T. Jones, L. B. Hardison,
J. L. Taylor, and W. D. Russell

be compensated at their respective overtime rates of pay, on a proportionate basis, for all man-hours of Signal Work performed by Union Switch & Signal Company forces beginning November 1, 1965, and continuing until a correction of this violation is effected. (Carrier's File: SIG 488)

EMPLOYEES' STATEMENT OF FACTS: This claim is the result of Carrier's contracting out work covered by the Scope of the Signalmen's Agreement. The work involved the installation of new equipment and modifications to the Signal System in order to extend Centralized Traffic Control from 3rd Street, Macon, Georgia (Mile Post 192) to Rutland, Georgia (Mile Post 197). Work by the contractor's forces was begun on November 1, 1965.

Another such dispute, currently before this Division, involving also the contracting out of Signal Work by this carrier is one which we identify as NRAB-1706-CofGa. A docket number has not as yet been assigned.

This fact was not denied by the Brotherhood's General Chairman. Under the April 16, 1965 agreement all the claimants except J. L. Taylor and W. D. Russell are "protected employees." Taylor entered the service on January 21, 1964, and Russell on March 9, 1964; however, W. D. Russell resigned after completing work December 13, 1965. "Protected employees" under Article IV of such agreement are not to be placed in a worse position with respect to compensation than the normal rate of compensation of positions to which assigned on October 1, 1964 plus any subsequent general wage increases. The "protected employees" are guaranteed the rate of compensation received on October 1, 1964 so long as they protect their rights and until such time as they retire, die or are discharged for cause. Having been guaranteed lifetime pay under the conditions outlined in the referred to April 16, 1965 agreement, they cannot expect more.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim in this case is based on a violation of the Scope Rule alleging that Carrier engaged the services of an independent contractor not covered by their Agreement to perform work which rightfully should have been performed by the Claimants.

Carrier first raises a jurisdictional question based on the Interstate Commerce Commission Order authorizing the acquisition of the Central of Georgia Railway Company by the Southern Railway Company. Briefly stated, the position of the Carrier in this regard is that:

(a) The Board is without jurisdiction because the dispute does not arise under the rules and working conditions Agreement.

(b) The Board is without jurisdiction because the Commission's employe condition supersedes the rules and working conditions Agreement as to the approved transaction.

(c) The Board has no jurisdiction to interpret the Commission's employe protective conditions.

The identical jurisdictional question confronting us was raised in Award 15028 (Dorsey) among others, in which it was held that this Board does have jurisdiction. We see no reason to disagree with that decision.

Addressing ourselves to the claim as submitted, a demand is made that certain named Claimants "be compensated at their respective overtime rates of pay, on a proportionate basis, for all man hours of signal work performed by Union Switch and Signal Company forces beginning November 1, 1965 and continuing until a correction of this violation is effected." The claim as presented is vague and indefinite failing to give essential facts such as a descriptive nature of the work involved, definite dates and hours of work performed on each such day. The claim in effect would require Carrier to examine its records to determine the number of employees used by the independent contractor, the days worked, the hours worked and then determine the amount of compensation payable to Claimants. The awards emanating from this Board establishing the principle that claims must be specific and that Carrier is under no obligation to develop the claim for the petitioner are too numerous to mention. Suffice it to say that the principle is well established and not subject to dispute. The burden is on Petitioner to present facts sufficiently specific to constitute a valid claim. The vagueness and

indefiniteness of the instant claim is therefore fatal and renders a proper adjudication of the merits impossible. We will dismiss the claim.

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 Employee 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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of October 1968.

DISSENT TO AWARDS NOS. 16675 AND 16676 DOCKETS SG-17018 AND 16947

The Majority's holdings that the claims presented in Awards Nos. 16675 and 16676 are vague and indefinite are a mockery of our purpose and in conflict with others of our Awards involving the present as well as other parties.

Awards Nos. 16675 and 16676 being in error, we dissent.

W. W. Altus, Jr.
For Labor Members