

Award No. 17002

Docket No. SG-17564

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John J. McGovern, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railway Company for time and one-half, at their respective rates, in favor of all employees of the signal department for a proportionate part of the hours worked by contractor's forces in the installation and change of present and new signal systems in the area of Beaumont, Texas, on the Kansas City Southern Railroad. This claim shall cover all work performed by contractor's forces, in this connection, during the sixty (60) day period immediately preceding date of this claim (October 8, 1966) and shall be a continuing claim until this matter has been resolved.

[Carrier's File: 013.31-85.]

EMPLOYEES' STATEMENT OF FACTS: Because of the plans of the City of Beaumont, Texas to have removed from its streets the tracks of the Kansas City Southern, Southern Pacific, Missouri Pacific and Atchison Topeka and Santa Fe Railroads, the Carrier involved in this dispute made application to the Interstate Commerce Commission in June 1966 for approval to make needed changes in its signaling system.

The public notices of these applications have been reproduced and identified as Brotherhood's Exhibit Nos. 1-b, 1-f and 1-g. The reasons given the Commission for seeking approval of these changes was — "To expedite train movements through the City of Beaumont" and "To compliment a traffic-control system being installed to expedite traffic in and through the City of Beaumont, Texas."

In September 1966, General Chairman of the Brotherhood L. A. Gandy wrote the Carrier informing them that the work in connection with the proposed signal system changes to be made in and around the City of Beaumont, would properly accrue to Signalmen covered by the Agreement between the Brotherhood of Railroad Signalmen and the Kansas City Southern Railroad and calling to their attention a Memorandum of Agreement dated May 10, 1944, outlining the procedure to be followed when it is desired to contract to outside parties. The General Chairman advised the Carrier if any of this work was assigned to other than employees covered by the Signalmen's Agreement, claims would be filed for the violations. (Brotherhood's Exhibit No. 2.)

the effective Agreement. The instant claim contemplates that the Beaumont Project should have been accomplished by working the existing force additional overtime.

OPINION OF BOARD: The issue presented in this case is an alleged violation of the Agreement by Carrier when it permitted an independent, outside Contractor to perform certain work which the Organization maintains is within the purview of the Agreement.

The facts of record are that the City of Beaumont, Texas entered into a contract with a company to remove tracks of the Carrier from its city streets. Carrier did not enter into the Agreement, hence was not a party to this contract. There was no privity of contract insofar as Carrier was concerned. The cost of the work involved was substantial and was to be sustained by the city. Carrier therefore, not being a party to this contract, cannot be held in violation of their collective bargaining Agreement with the Organization. This same issue was presented to this Board in Award 15906. We adopt the decision and the reasoning contained therein. We 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 25th day of March 1969.