



Award Number 17665

Docket Number SG-18175

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Gladden, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chesapeake and Ohio Railway Company (Chesapeake District) that:

- (a) Carrier violated the current Signalmen's Agreement, in particular Rule 1 (scope), when between the hour of 1:00 AM and 2:00 AM on October 29, 1967 it instructed, permitted or otherwise allowed the Train Dispatcher to adjust time on train graph on CTC machine.
- (b) Carrier now be required to compensate Leading Signal Maintainer W. E. Tilson in the amount of a minimum call (four (4) hours) at his applicable rate of pay for the violation cited in part (a) of this claim.

(Carrier's File: 1-SG-259)

EMPLOYEES' STATEMENT OF FACTS: This dispute arose when with the return to "Standard" from "Daylight Saving" time on October 29, 1967, Carrier instructed, permitted or otherwise allowed the Train Dispatcher on duty in Ashland, Kentucky to adjust time on train graph.

The train graph is a part of the C. T. C. system.

Leading Signal Maintainer, W. E. Tilson, regular assignee to the territory on which the violation occurred, was available and would have responded for such work had he been called.

There is an agreement in effect between the Brotherhood and the Chesapeake and Ohio Railway Company (Chesapeake District) (Carrier), bearing an effective date of August 16, 1946, (reprinted May 16, 1958), as amended, in which Rule 1 (scope) provides:

"This agreement covers rates of pay, hours of service, and working conditions of all employees engaged in the maintenance, repair, and construction of signals, interlocking plants, highway crossing protection devices and their appurtenances, wayside train stop and train control equipment, car retarder systems, including such work in signal shop, and all other work generally recognized as signal work. It is understood the classifications provided by Rules 2, 3,

4, 5 and 6 include all the employees of the signal department performing this work described in this rule."

This claim has been handled on the property in the usual and proper manner, up to and including the highest officer of the Carrier designated to handle such disputes, without receiving a satisfactory settlement.

Pertinent correspondence and other evidence has been reproduced and attached hereto identified as Brotherhood's Exhibits Nos. 1 through 5.

(Exhibits not Reproduced)

CARRIER'S STATEMENT OF FACTS: There is on file with your Board a copy of the agreement between this Carrier and the petitioning organization identified as Schedule No. 6, reprinted May 16, 1958. That agreement is controlling where it may be applicable and it is made a part hereof by reference.

The Uniform Time Act of 1966 provides that the nation will revert to daylight saving time on the last Sunday of April and remain thereon until the last Sunday in October. The time changes are effectuated at 2:00 A.M. on the aforementioned dates. Accordingly, on April 30, 1967 this Carrier reverted to daylight saving time and remained thereon until 2:00 A.M. on Sunday, October 29, 1967, at which time all clocks were set back one hour.

Located in Carrier's dispatcher's office at Ashland, Kentucky is a C.T.C. Machine equipped with a train graph which records the time trains pass certain specified locations. When the Carrier reverted to Eastern Standard Time at 2:00 A.M., on October 29, 1967, it was necessary to shut the train graph off for one hour in order for it to register the proper time, i.e., Eastern Standard Time instead of Daylight Saving Time. The train dispatcher on duty at the time accomplished the foregoing by simply flipping a toggle switch which turned the train graph off, left it off for one hour, and then flipped the switch again which reactivated the mechanism.

The petitioner contends that the claimant, a leading signal maintainer assigned to the Ashland maintenance group, should have been called to flip the switch off and on and in support thereof relies upon Rule 1 of the parties' agreement. That rule provides as follows:

"This agreement covers rates of pay, hours of service, and working conditions of all employees engaged in the maintenance, repair, and construction of signals, interlocking plants, highway crossing protection devices and their appurtenances, wayside train stop and wayside train control equipment, car retarder systems, including such work in signal shop, and all other work generally recognized as signal work. It is understood the classifications provided by Rules 2, 3, 4, 5, and 6 include all the employees of the signal department performing the work described in this rule."

(Exhibits not Reproduced)

OPINION OF BOARD: This claim came about when on October 29, 1967, a train dispatcher reset the train graph on a CTC machine by cutting off the power to the graph for a period of one hour by the throwing of a toggle switch. This was done to adjust the machine from savings time to standard time.

Organization insists that the purpose and effect of the throwing the switch in question was to "adjust", or "maintain" the CTC machine. This,

it contends, was in violation of Rule 1 of the controlling agreement which reads in part as follows:

"RULE 1--SCOPE

This agreement covers rates of pay, hours of service, and working conditions of all employees engaged in the maintenance, repair, and construction of signals,"

The Carrier contends that no special skill was required to the "flicking of a toggle switch" and that the particular act is therefore not within the confines of Rule 1 of the agreement. We do not agree. While one of the purposes of Rule 1 of the agreement is to assign work requiring special skills common to the employees covered by the agreement it is not limited to this single purpose. The agreement covers "all employees engaged in the maintenance, repair, and construction of signals," without reference to the degree of skill necessary for performance of these tasks.

The CTC machine required maintenance to bring it into conformity with the standard time adopted on the date in question. Such maintenance is within the scope of Rule 1, by agreement of the parties.

While the Carrier may have devised a simple method of correcting the time on the CTC machine, this alone is not sufficient to remove such work from being covered by the agreement.

The work covered under this rule was bargained for by the Organization and may not be unilaterally withdrawn by the Carrier, even though to do so would result in reduced operational costs to the Carrier.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of January 1970.

CARRIER MEMBERS' DISSENT TO AWARD NO. 17665,

DOCKET NO. SG-18175

(Referee Don Gladden)

The holding that the flipping of a toggle switch by the operator of a CTC machine (the train dispatcher) to turn off for one hour the train graph of the machine, constitutes maintenance of the CTC machine borders on the ridiculous.

Award 2932, rendered June 20, 1945, with Referee Carter participating, cautioned against the creation of a "contractual absurdity by interpretation." In that same award it was held:

"The Board recognizes the necessity of protecting the work of signalmen as it does any other group under a collective agreement. But this does not mean that the simple and ordinary work that is somewhat incidental to any position or job and requiring little time to perform, cannot be performed as a routine matter without violating the current Agreement. To come within the scope of the Agreement it must be work requiring the exercise of some degree of skill possessed by a signalman. * * *"

A number of subsequent awards, which were cited to the Referee, adhered to the same principle enunciated in Award 2932.

Award 17665 may only properly be classed as creating a "contractual absurdity by interpretation." It is in palpable error and we dissent.

/s/ P. C. CARTER
P. C. Carter

/s/ G. C. WHITE
G. C. White

/s/ R. E. BLACK
R. E. Black

/s/ W. B. JONES
W. B. Jones

/s/ G. L. NAYLOR
G. L. Naylor