



Award No. 18814

Docket No. SG-19151

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

TOLEDO, PEORIA & WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Toledo, Peoria & Western Railroad Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when it arranged for and/or permitted other than signal employees covered by that Agreement to wire four instrument cases and four flasher light units which were put in service on the T.P.&W.R.R. at Crescent City, Illinois, on September 23, 1969.

(b) Carrier should compensate Leading Signal Maintainer E. L. Snyder, and Signal Maintainers R. A. Butenas and H. G. Forrest for one hundred and thirteen (113) hours each at their respective straight-time rates of pay. (Carrier's File: 13 Signalmen Claim)

EMPLOYES' STATEMENT OF FACTS: There is an agreement between the parties to this dispute bearing an effective date of April 1, 1956, as amended, which is by reference made a part of the record in this dispute. The pertinent part of that agreement is:

"SCOPE

This agreement governs the rates of pay, hours of service and working conditions of all persons engaged in the construction, installation, reconstruction, repair, reconditioning, dismantling, inspection, testing and maintenance, either shop or in the field, of the following:

(a) All signals and signaling systems, traffic and C.T.C. control systems; interlocking systems however controlled; train stop and train control equipment and devices; car retarders and car retarder systems; highway crossing protective devices; track occupancy indicators; electric lighting and all electrical work, air conditioning, (not including rolling stock) heating, radio, and power apparatuses, as heretofore performed by the Telegraph and Signal Department employees, including all telephone and telegraph office equipment, wayside or office equipment of all communicating systems, including the field and shop repair and adjustment

cases and four flasher light unit arms which was put in service on the TP&W RR at Crescent City, Illinois account wiring was contracted out and performed by men not covered by the Signalmen's agreement.

This original claim and subsequent denials and appeals by Carrier and Organization are made part of this submission by reference thereto (Carrier's Exhibits A thru G).

(Exhibits not reproduced.)

OPINION OF BOARD: The claim alleges that the Carrier violated the Agreement, particularly the Scope, when it arranged for and/or permitted other than signal employees to wire four instrument cases and four flasher light units which were placed in service by the Carrier at Crescent City, Illinois, on September 23, 1969. The Petitioner relies primarily upon that part of the Scope Rule reading: "* * * inside and outside wiring of cabinets and machines and fixtures and cables, track bonding, pertaining to signaling, * * *."

The Carrier contends that it simply purchased pre-wired or pre-assembled instrument cases and flasher unit arms for installation at highway crossings; that ownership of the equipment did not pass to the Carrier until received on Carrier's property; and that employees covered by the Agreement made all necessary installations after receipt from the manufacturer. The Carrier also contends that similar types of pre-assembled equipment have been utilized by the Carrier prior to the instant dispute, without protest from the Petitioner. The Carrier says that its purchase was for all material, including the wired instrument cases, and denies that it contracted signal labor to a third party.

Numerous cases have been before this Board involving the purchase of signal equipment, and the Board has generally upheld the right of Carriers to purchase pre-assembled or pre-wired equipment. In Award 5044 it was held:

"This equipment was never purchased and delivered on the property of the Carrier for use until the work claimed had been performed at the factory. The right of employees never attached until Carrier acquired possession of it."

The record in our present docket warrants a similar holding. The Scope Rule of the Agreement has no application to work performed on equipment by the manufacturer prior to delivery of the equipment to the Carrier. See Awards 4662, 10765, 16124, 15577, 12553 among others. The claim will be denied.

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: E. A. Killeen
Executive Secretary**

Dated at Chicago, Illinois, this 12th day of November 1971.