



Award No. 19131

Docket No. SG-15413

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Baltimore and Ohio Railroad Company that:

(a) Carrier violated and continues to violate the current Signalmen's Agreement, as amended, particularly the Scope, when the installation and maintenance of hot box detectors, including carrier equipment, is assigned to persons other than Signal Department Employees.

(b) Carrier be required to pay the Signal Department Employees on the Akron-Chicago Division Seniority Roster as of March 12, 1964, at their respective rates, beginning 60 days prior to March 12 and continuing as long as the violation exists, for an amount of time equal to that consumed by others in performing the aforementioned generally recognized signal work.

EMPLOYEES' STATEMENT OF FACTS: Generally, this dispute arises from the installation and maintenance of hot box detector systems on a portion of Carrier's line of road in the State of Ohio on the Akron-Ohio Division.

Beginning on or about January 10, 1964, Signal Department employees installed hot box detectors at Duck Creek (Rock Cut), Charlestown, Munroe Falls, Rittman, Easton, and Homer; they installed repeater stations at Warwick, Lodi, Willard, and Akron; and they installed the graphs and wheel counters in the dispatcher's office at Akron. They have subsequently maintained all of this equipment and apparatus.

Specifically, the dispute involves the installation and maintenance of carrier equipment used in connection with the transmission and reception of information relative to the heating of journals on rolling stock.

During the period that Signalmen were installing other components of the hot box detector system, Communications employees were assigned to install — and have since maintained — at the aforesaid locations all of the carrier equipment for the system. CTC code lines installed and maintained by Signalmen are used as a conductor for the carrier circuits west of Akron; whereas communications wires are utilized between Akron and the field locations east.

A hot box detector system installation which had been completed by Signalmen at Hancock, West Virginia, was the subject of a discussion by General

It has been uniformly held before this tribunal as well as before other competent labor tribunals that for a claim to be valid under an application of Section 1(a) of Article V of the National Agreement the employe or employes claiming must be expressly and specifically named; yet there are no named claimants in this case. It is unsatisfactory to deal in terms of " * * * Signal Department on the Akron-Chicago Division seniority roster * * * ." Such identification does not and cannot meet the requirements of the Time Limit on Claims Rule.

For example, in the Award in Docket No. 43 of Special Board of Adjustment No. 192 (BRC v B&O) (Referee Francis J. Robertson) it was held in part as follows:

" * * * On August 21, 1954 a national agreement was consummated providing among other things for time limitations on the handling of grievances. * * * The language of Section 1(a) has been considered by a number of Special Boards of Adjustment and also by the Fourth Division of the National Railroad Adjustment Board. Those tribunals have uniformly held that for a claim to be valid the employe must be named. A logical interpretation of the language of the Agreement supports the finding of those tribunals. We agree with those Findings and accordingly, hold that the Carrier is liable to pay only those individuals named in the claim filed July 30, 1956. Since the claim on behalf of unnamed people was void when filed, the failure to deny that part of the July 30, 1956 claim within the 60 day period cannot validate it. * * * "

The Carrier submits that the wage claim at part (b) of this protest is basically defective and necessarily must be denied for the failure of the Signalmen's Committee to name the claimant or claimants under an application of the Time Limit Rule.

OPINION OF BOARD: This dispute involves the installation and maintenance of Carrier equipment used in connection with the transmission and reception of information from what is commonly known as a "Hot Box Detector." The Organization contends that on this property, employes of the Signal Department, up until the date of this alleged violation, always installed and maintained Hot Box Detectors. The organization further contends that an Agreement existed between the Organization and Carrier as a result of several conferences that where Carrier was used to transmit information from a detector to a graph over existing communication wires, that the maintenance of such wires would not accrue to Signal Department employes; and that the addition of ink and renewal of graph paper in a recorder would be done by the Operator, when the recorder was located in a tower. The Organization states that the above two items constituted all the exceptions and that all other work in connection with the installation and maintenance of Hot Box Detector systems was understood to be included in the Scope Rule of the Signalmen's Agreement. This dispute arose when Carrier assigned to Communications employes (covered by Electrician's Agreement) certain work of installation and maintenance of Carrier equipment used in connection with Hot Box Detectors. Part (b) of the instant claim demands payment to "Signal Department Employes" on the Akron-Chicago Division * * *. Carrier contends that this Division is without authority or jurisdiction to determine this cause for the reason that Claimants were not named as required by Section 1(a) of Article V of the August 21, 1954 National Agreement, and that for the reason that the involved work was performed by employes coming under the Electrician's Agreement, said Electrician employes should be accorded notice as

an interested party to this dispute. In other words, Carrier asserts that there has been no proper joiner of interested parties. On the merits, Carrier alleges that the work in question does not deal with the installation of "Hot Box Detectors," but rather of installation of certain "Carrier equipment" that has always been performed by telephone maintainers in the Communications Department; that such equipment or part of a signal system as contemplated by the Scope Rule and that the involved work has never belonged to employes of the Signalman's Organization.

The record discloses that the Electrician's Organizations was accorded due notice and has responded in this dispute. Therefore, there has been a proper joiner of interested parties. There is also found that the "Unnnamed Claimant" issue was not handled on the property, and, therefore, will not be considered in resolving this dispute.

It is conceded by Carrier that Employes of the Signalman's Organization have the right to install and maintain "Hot Box Detectors". Therefore, the question to be determined is whether the involved work was installed for the primary function for signaling purposes or communication purposes. Carrier equipment installed by Communication employes was Carrier equipment used in connection with the transmission and reception of information from a "Hot Box Detector". Carrier has cited Awards Nos. 18898 and 19000, both by Referee Cull, as authority for a denial award in this dispute. This Referee has carefully examined those awards together with the dissent to Award No. 19000. The facts contained in the two cited awards by Referee Cull are compatible with the facts contained in this dispute. This Board finds that Awards Nos. 18898 and 19000 are not in palatable error, and therefore, we are compelled to follow the doctrine of stare decisis. The Carrier equipment installed in this instance was installed as a part of an overall communications system. This work is within the scope of the Agreement covering Telephone Maintainers. A sustaining award in this case would have the effect of transferring work belonging to Electrical Workers to Signalmen. Such a transfer of work would be an unauthorized function of this Board. This claim will be denied for the foregoing reasons.

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 Employes involved in this dispute are respectively Carrier and Employes 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 April 1972.

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