

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19333
Docket Number SG-19048

Arthur W. Devine, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(The Denver Union Terminal Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Denver Union Terminal Railway Company that:

(a) The Denver Union Terminal Railway Company violated the current Signalmen's Agreement, effective September 1, 1949, including revisions, when it failed and/or declined to apply the Scope Rule by assigning employees not covered by the Classification Rules to perform work covered by the Scope, of correcting signal trouble at switch locations 161 and 157 at 4:00 A.M. on October 4, 1969.

(b) Mr. G. J. Miller be allowed two (2) hours and forty (40) minutes at the time and one-half rate of his assignment in addition to any compensation allowed Mr. Miller for October 4, 1969. (General Chairman's File: GJM-10-22-69; Carrier's File: 018.1)

OPINION OF BOARD: The record shows that on the date involved towerman was unable to secure proper indication of certain switch points in interlocking plant. When this occurred, a maintenance of way employee was called and cleared snow out of the switches, following which they operated properly.

The Board has held in numerous awards that the removal of snow and ice from interlocking switches by other than signal employees when there is no malfunction of equipment not to be in violation of rules comparable to the rules involved in our present docket. (See Award 17327 and others cited therein). However, where switches fail to work properly, and such failure is indicated on the control machine, the Board has held that signalmen should be called. In Award 11761 (Dorsey) in a situation comparable to the one here involved, the Board held:

"The evidence supports the contention of the Petitioner that electric switch No. 13 failed to lock in the normal position, and that as a result a track foreman and one laborer were called out. After these employees cleaned snow and ice out of the switch points, the switch operated normally.

"We find that the work involved was incidental to the proper operation of the interlocking and as such belongs to employees covered by the Signalmen's Agreement. Award 4593.

"The claim will be sustained."

Award 11761 was affirmed in Awards 19186, 19270 and 19282. We adhere to the principles enunciated in those awards. See also Awards 13938, 14577, 18372 and 18557.

The claim will be sustained.

We have considered the submission of Brotherhood of Maintenance of Way Employees and the pertinent part of its agreement with Carrier and find that under the circumstances herein Carrier's failure to call Signalmen violated Signalmen's Agreement.

FINDINGS: That 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 Employee involved in this dispute are respectively Carrier and Employee 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:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 14th day of July 1972.