

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19378
Docket Number SG-18407

Thomas L. Hayes, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Erie Lackawanna Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Erie-Lackawanna Railroad Company:

(a) Carrier violated, and continues to violate the intent and provisions of the current Signalmen's Agreement, particularly the scope rule, memorandum of understanding dated March 21, 1950, and bulletin dated May 17, 1954 (File 201.01.83) by O. G. Carey, Signal Supervisor, when it failed and/or refused to allow Signal Electrical forces to install wiring, apparatus and appliances at the Elmira yard, Elmira, N. Y., and permitted three Maintenance of Equipment Electrical men from Buffalo, N.Y., and one Maintenance of Equipment Electrical man from Binghamton, N.Y., (Lackawanna side) to commence work on the proposed Piggy-back Yard at the Elmira yard on November 27, 1967.

(b) Carrier now be required to compensate Mr. T. L. Kishbaugh, Leading Signal Electrician, Elmira, N. Y., T. A. Rohan, Signal Electrician, Elmira, N. Y., and the two senior Signalmen holding positions in Gang 51, Susquehanna division, and any or all men in Gang 51 should more men be brought into Elmira, N. Y., in violation of our Agreement, at their regular rate for all hours that the Maintenance of Equipment Electricians are in Elmira, N.Y., performing Signal Electrician's work. Carrier's File: 161-SIG.7

OPINION OF BOARD: In this case Petitioner alleges that Carrier violated and continues to violate the current Signalmen's Agreement, particularly the scope rule, memorandum of understanding dated March 21, 1950, and bulletin dated May 17, 1954 by O. G. Carey, when it failed and/or refused to permit Signal Electrical forces to install wiring, apparatus and appliances at the Elmira Yard, Elmira, N. Y., and allowed three Maintenance of Equipment Electrical Men from Buffalo, N. Y. and one Maintenance of Equipment Electrical man from Binghamton, N.Y. to begin work on the proposed Piggy-back Yard at the Elmira Yard on November 27, 1967.

Obviously, the exclusive right asserted here by Petitioner must come, if it exists at all, from the parties' agreement or past practice and custom on the property. A review of the agreement persuades us that it does not give signal department employees an exclusive right to the work which is the subject of this claim and there is no evidence that signalmen perform such work on a system-wide basis. Therefore, the claim must be dismissed.

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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 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 Claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E.A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of July 1972.