

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20242
Docket Number SG-19832

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(George P. Baker, Richard C. Bond, Jervis Langdon,
(Jr., and Willard Wirtz, Trustees of the Property
(of Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the former New York Central Railroad Company (Lines West of Buffalo):

In favor of Leading Signal Maintainer F. J. Quada for fifteen (15) hours' punitive time for April 3, 1971--Claimant's rest day--account not called on this date to assist Signal Maintainer R. J. Sales to correct signal trouble in the hours of 6:30 A.M. and 11:30 A.M. at Elm Ave., Dearborn, Michigan; and the hours of 11:30 and 4:00 P.M. at Signal 284; and the hours of 4:00 P.M. and 6:30 P.M. at Signal 592; and the hours of 6:30 P.M. and 9:30 P.M. at Signal 352; instead, Carrier used Signal Inspector G. Gowanlock to assist Signal Maintainer Sales, this in violation of the Scope Rule of the current Craft Working Agreement.

OPINION OF BOARD: On Saturday April 3, 1971, Claimant, a Leading Signal Maintainer, was observing one of his regularly assigned rest days. On that date, a Signal Maintainer and a Signal Inspector were called out on an overtime basis to correct flasher trouble at a crossing in Dearborn, Michigan. After this work was completed, the two men were held on duty to correct three other signal problems.

Petitioner contends that the Agreement was violated when Carrier called and used an employee not covered by the Agreement, the Signal Inspector, to assist the Signal Maintainer in correcting the signal failures on April 3, 1971. It is urged that Carrier violated the Scope Rule of the Agreement by its action and further that by practice, tradition and custom craft employees are called and used to perform the work of correcting signal troubles.

Carrier argues that there is nothing in the Agreement which would prohibit the employment of an inspector (who is represented by the same Organization under a separate Agreement) to assist a craft employee in the detection and correction of signal problems. Carrier states that the Signal Inspector was called out in this instance because of his technical knowledge of the overlay circuits involved and in order to correct the problem as rapidly as possible. The Scope Rule in this Agreement provides as follows:

"RULE 1

This agreement covers rates of pay, hours of service and working conditions of all employees in the Signal Department classified herein, engaged in the construction, installation, inspection, testing, maintenance and repair either in the signal shop or field of:

(a) Electric, electro-pneumatic, pneumatic, electro-mechanical or mechanical interlocking systems, electric, electro-pneumatic, pneumatic or mechanically operated signals and other signaling systems, highway crossing protective devices generally installed and maintained by signal forces, and appurtenances of all these devices and systems.

(b) Car retarder systems, centralized traffic control systems, wayside automatic train controlling or stopping devices, spring switch mechanisms protected with signals and generally installed and maintained by signal forces, Signal Department pole and duct lines and charging apparatus, signal wires and cables in joint duct and on joint pole lines, bonding of track for signal and interlocking purposes.

(c) Other work generally recognized as signal work."

Under the Agreement between the Organization and the Carrier covering Signal Inspectors, Rule 1 provides a definition of the Inspector's functions as predominantly "...testing and inspecting signal systems, signal facilities, signal apparatus and appurtenances and other duties associated therewith." Carrier claims that Signal Inspectors, by custom and practice, aid in the restoration of signals as incidental to their primary work of testing and inspecting signals; this work is believed to come under the "other duties associated therewith" cited above.

The Scope Rule above is general in nature and does not per se reserve the work described to employees covered by the Agreement. It is well established that with a general scope rule only the existence of a system-wide history of practice and custom can support an exclusive right to specific work; this has not been shown in this dispute. In a related matter involving the same parties (Award 17706) we also found that the Scope Rule did not reserve the work exclusively to employees of the craft. In this dispute we do not find any basis for distinguishing between the work of the two classifications involved; the Petitioner has provided assertion but no facts. Since the burden of proof has not been met, the Claim must 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 17th day of May 1974.