

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20511
Docket Number SG-20208

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(The Chesapeake and Ohio Railway Company
((Chesapeake District)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chesapeake and Ohio Railway Company (Chesapeake District) that:

(a) The Carrier violated and continues to violate the current Signalmen's Agreement, particularly Scope Rule 1 and Rule 34, on or about December 1, 1971, when it allowed or otherwise assigned the maintenance and future repairs toward the improved signal facilities located at Gest Street, Cincinnati, Ohio to persons not covered by the Agreement we have with this Carrier. As a result of such action we now ask;

(b) The Carrier compensate Signal Maintainer M. F. Wills, C&O ID-2271444, at his applicable pro rata rate of pay, and for a comparable amount of time that other than C&O signal employees perform the work cited in part (a) of this claim. Furthermore;

(c) Due to this being a continuing violation, we further ask that said claim continue until such time as Carrier takes the necessary corrective action to return said work to its signal employees. [Carrier's File: 1-SG-304/

OPINION OF BOARD: This dispute is the companion to the matter dealt with in Award 20181. Both disputes involve the interlocking plant at Gest Street on Carrier's property at Cincinnati, Ohio. The history, in summary, is that Carrier, by Agreement with the CNO & TP and C.U.T. of November 1933 (which superseded agreements going back to 1902) was given the responsibility to construct and maintain certain signal facilities at the crossing of CNO & TP tracks with its own tracks at Gest Street. At about 1929 an interlocking facility was constructed at this location and it was maintained by Carrier's signal forces until 1971. In 1971 Carrier, the B & O, CNO & TP and C.U.T. entered into a new agreement which provided among other things, for the ownership, construction, and maintenance of a new interlocking facility including Gest Street. This agreement provided that the work of constructing and maintaining the new facility would be performed by the B & O.

The Scope Rule of the applicable Agreement covers employees engaged in the maintenance, repair and construction of interlocking plants, in addition to other work. In Award 20181 we held that Carrier erred in ceding the work of improving the Gest Street facility to employees of another

Carrier: the B & O. In this dispute we reaffirm the reasoning of the companion Award. To be consistent, we cannot hold that Carrier did not have the right to rebuild the interlocking facility using employees of another Carrier but under the same agreement does have the right to contract out the maintenance of the new facility. Since the very same contracts among the Carriers and with the Organization are involved, we find that Carrier may not have B&O employees performing maintenance work at the Gest Street facility which work properly belongs to its own Signal forces.

As we said in the earlier Award, we note that the B & O and this Carrier have the same overall management and this dispute may well have been resolved on the property had there been adequate communication.

We repeat herein that which was stated in the companion dispute, in that this Award is not intended to impair the understanding that the B & O signal employees have the overall responsibility for maintenance of the interlocking facility; the sole exception is that any maintenance work involving the new facilities replacing the tilting target signals at Gest Street properly accrues to signal forces of this Carrier.

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 violated.

A W A R D

Claim sustained to the extent indicated in the Opinion above.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 8th day of November 1974.

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

INTERPRETATION NO. 1 TO AWARD NO. 20511

DOCKET NO. SG-20208

NAME OF ORGANIZATION: Brotherhood of Railroad Signalmen

NAME OF CARRIER: The Chesapeake and Ohio Railway Company
(Chesapeake District)

Upon application of the representatives of the Employees involved in the above Award, that this Division interpret the same in light of the dispute between the parties as to the meaning and application, as provided for in Section 3, First (m) of the Railway Labor Act, as approved June 21, 1934, the following interpretation is made:

After careful review of the petition of the Organization for an interpretation of Awards 20181 and 20511, and Carrier's response thereto, we find that the Organization's understanding of the intent of the two Awards is erroneous.

We indicated in both of the Awards a careful restriction of the work in dispute to that which related only to the replacement and subsequent maintenance "... involving the new facilities replacing the tilting target signals at Gest Street." The Awards did not contemplate any other work in the overall project accruing to Claimants. As we examine the record herein, it seems that the work has been adequately defined in Carrier's letter dated April 3, 1975 as that involving eight signals which replaced the tilting target signals at Gest Street together with certain specified appurtenances. It was not our intention to include within the remedy any other work on the interlocking facility, and certainly not "all signals and related equipment between C & O Mile Post 0 and Mile Post 8.2", or work on C & O No. C-1 and C-2 tracks between Gest Street and C & O Mile Post 0.

Referee Irwin M. Lieberman, who sat with the Division, as a neutral member when Award No. 20511 was adopted, also participated with the Division in making this interpretation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulsen
Executive Secretary

Dated at Chicago, Illinois, this 13th day of February 1976.