

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20599  
Docket Number SG-20414

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(Louisville and Nashville Railroad Company

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

(a) Carrier violated the Signalmen's Agreement, particularly the Scope, when, on September 27, 1971, and October 4, 1971, persons other than signal employees were used at or near Moran, Tenn., and at or near Holts Corner, Tenn., to install meter bases, conduit and wires used exclusively for operation of Carrier's signal system.

(b) Carrier should pay to Signal Maintainer C. K. Armstrong additional compensation equal to twenty-four (24) hours at his overtime rate. (Carrier's File: G-304-12)

OPINION OF BOARD: On the claim dates Carrier utilized employees in the positions of Road Electricians to install certain electrical power feeds (a meter base, conduit and wires) for the use of commercial electric power. By letter of November 24, 1971 the instant claim was filed by the Organization in behalf of Claimant C. K. Armstrong alleging that the installation of power feeds from commercial lines was vested in the Signalmens Craft by virtue of the Scope Rule of the applicable agreement.

The claim was processed without resolution on the property and now comes to us for disposition. Inasmuch as the electricians had an interest in the outcome the International Brotherhood of Electrical Workers, representing Carriers' electrical employees was invited to participate as a third party to this dispute and has presented a statement of its position on the record for our consideration.

Turning to the merits of the instant claim, we note that the cited Scope Rule reads in pertinent part as follows:

"RULE 1. SCOPE

This agreement covers the rates of pay, hours of service and working conditions of all employees, classified herein, engaged in the construction, installation, repair, inspecting, testing and maintenance of all interlocking systems and devices; signals and signaling systems;

"wayside devices and equipment for train stop and train controls; car retarders and car retarder systems; power operated gage mechanism; automatic or other devices used for protection of highway crossings; spring switch mechanism; electric switch targets together with wires and cables; train order signals in signaled territory and elsewhere within the limits of a signal maintainer's territory; power or other lines, with poles, fixtures, conduit systems, transformers, arresters and wires or cables pertaining to interlocking and signaling systems; interlocking and signal lighting; storage battery plants with charging outfits and switch board equipment; substations, current generating and compressed air plants, exclusively used by the Signal Department, pipe lines and connections used for Signal Department purposes; carpenter, concrete and form work in connection with signal and interlocking systems (except that required in buildings, towers and signal bridges); together with all appurtenances pertaining to the above named systems and devices, as well as any other work generally recognized as signal work."

While "power or other lines" are listed inter alia among the work performed by employees subject to the Signalmen's Agreement, nowhere is there a clear and express reservation of this work to signal employees to the exclusion of others. Accordingly under well established rules of construction followed by this Board we must look beyond the Rule to custom, practice and tradition for the requisite exclusivity. See Awards 10615, 10931 et al.

Close examination of the record herein shows no exclusive performance of the work in question by the Signal employees or any other craft. Indeed, the record shows that over the years such installation has been performed by signal employees, electrical employees of Carrier, (sometimes in combination) and by employees of outside contractors. Such inconsistency hardly meets the requirement of exclusivity which must be shown in such cases. In these circumstances we have no recourse but to deny the claim herein.

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;

Award Number 20599  
Docket Number SG-20414

Page 3

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:

  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1975.