

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20757
Docket Number SG-20347

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Peoria and Pekin Union Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood
of Railroad Signalmen on the Peoria and Pekin Union
Railway Company:

For an amount of money, including overtime payments, equal to the amount now being expended to ACI Corp. for the use of its employees to maintain the ACI equipment, which is, as I understand it, leased from ACI Corp., or an amount of money, including overtime payments, which would have been paid to a P&PU Signal Maintainer had the duties been properly assigned to one, whichever is the larger amount. The money claimed should be distributed to all P&PU signal employees in the following manner:

Assistant Signal Maintainer L. C. Hendon, who is the senior Assistant, has been obviously deprived of promotion to Signal Maintainer because of the contracting out of signal work described above, and should be paid the difference between his rate and that of Signal Maintainer throughout the claim period.

After claim on behalf of Mr. Hendon has been satisfied, the residue of claim money should be equally distributed to all P&PU signal employees, including Mr. Hendon--namely, Messrs. R. H. Greenway, L. O. Crotts, R. C. Dillow, L. C. Hendon, and W. W. Lloyd.

Claim is retroactive 60 days from date (January 28, 1972) of this letter and continuing until the violation is corrected.

/Carrier's File: A-TC 49-72/

OPINION OF BOARD: Carrier leases from ACI Systems Corporation certain automatic car identification equipment, which said Corporation installed and maintains on Carrier's property. Ownership of the equipment remains in ACI Corporation.

The instant claim avers that use of ACI employees to maintain the equipment is a violation of the Scope Rule of the controlling Signalmen's Agreement. Certain Third Party interests were identified in the processing of the claim and, accordingly the Board provided notice and opportunity to be heard to the following interested organizations: Brotherhood of Railway Airline and Steamship Clerks,

T-C Division; Brotherhood of Maintenance of Way Employees; International Brotherhood of Electrical Workers and the Railway Employees Department, AFL - CIO.

We have studied the record herein including many Awards, all denying similar claims. Essentially the same issue was presented in denial Award 19259 (Devine) wherein we stated:

"...., the Board finds that the Petitioner has not proved with probative evidence that the Automatic Car Identification apparatus is in fact a part of the signal system. The fact that the apparatus is activated by the signal circuit does not in and of itself make the equipment part of the Carrier's signal system. The claim will be dismissed for lack of proof."

We find in the instant case nothing to warrant a result contrary to that in Award 19259. See also. Awards 19386, 19694, and 19854. Accordingly we shall dismiss the claim.

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 dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Pender*
Executive Secretary

Dated at Chicago, Illinois, this 18th day of July 1975.