

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20846
Docket Number SG-20781

Francis X. Quinn, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Norfolk and Western Railway Company)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Norfolk and Western Railway Company:

(a) The Carrier violated the current Signalmen's Agreement, particularly the Scope and Rule 8 (1), when it used employees not covered by the Signalmen's Agreement to perform signal work at Portsmouth, Ohio.

(b) The Carrier now pay Signal Maintainer Nelson Bellar eight and one-tenths (8.1) hours at his overtime rate of pay for the violations cited in part (a):

(1) On Friday August 18, 1972, an electrician was called to replace an amber lamp at West Avenue, Portsmouth, Ohio, (2.7 hours).

(2) On Tuesday September 5, 1972, a switch tender installed an indication lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio (2.7 hours).

(3) On Thursday September 21, 1972, an electrician installed an amber lamp at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).

The foregoing, initiated under date of October 5, 1972, was supplemented by the following:

"This claim is filed as a continuing violation in accordance with Rule 52 (3) of the current Signalmen's Agreement dated October 1, 1957."

Under date of July 9, 1973, the foregoing was supplemented by the following:

"Below is a list of continuing violations that have occurred since the above claims were presented to the Carrier:

- (1) On Monday October 30, 1972, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue Portsmouth, Ohio, (2.7 hours).
- (2) On Wednesday November 15, 1972, an electrician installed a red lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).
- (3) On Tuesday December 14, 1972, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).
- (4) On Thursday February 1, 1973, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio (2.7 hours).
- (5) On Thursday March 1, 1973, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).
- (6) On Monday March 26, 1973, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio (2.7).
- (7) On Wednesday May 2, 1973, an electrician installed an amber lamp in the switching signal at the switch tender shanty, West Avenue, Portsmouth, Ohio, (2.7 hours).

OPINION OF BOARD: Two previous awards, 20528 and 20690 involving the same parties and the same issue are clear in establishing that the Organization has the burden of proof in disputes such as this involving exclusivity. The record in the instant dispute contains no new material evidence which would persuade us to change the view expressed in these earlier awards. We find Awards 20528 and 20690 to be controlling and must deny the Claims 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;

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That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Petitioner has failed to meet its burden of proof.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois this 24th day of October 1975.