

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20872  
Docket Number SG-20626

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(The Baltimore and Ohio Railroad Company

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

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when it permitted the employes of the Conant and Vogt Construction Company, Cleveland, Ohio to remove bonds on No. 1 track on Bridge No. 167.92 at Johnsonburg, Pa., on July 19, 1972.

(b) Carrier should now be required to compensate Signal Maintainer D. E. Matson eight hours at straight-time rate of pay. [Carrier's File: 2-SG-61]

OPINION OF BOARD: The essential facts out of which this dispute arose are not in dispute. Carrier contracted with Conant & Vogt Construction Company to perform certain heavy steel and timber repair work on its Bridge No. 167.92 located at Johnsonburg, Pennsylvania. In order to accomplish this repair work it was necessary to remove the No. 1 Mainline Track from the bridge. The outside contractor's forces removed the rail and ties of No. 1 Track on July 19, 1972 and, in the process, broke, knocked off or otherwise removed some 26 bond wires. The breaking of the bonds triggered the track Circuit which indicated an unsafe track condition, albeit Carrier had, by Train Order No. 219, taken Track No. 1 out of service from July 17 to 20, 1972. The record shows that in removing the bonds, the outside forces broke and in some cases knocked off the bonds. These bonds were scrapped. After the construction work was completed the rails were relaid and Carrier's Signal forces were used to install necessary bonds when the rail was relaid.

Carrier contends at the outset that because the Train Order 219 took Track No. 1 out of service on claim date it cannot be considered part of the "signal system" and therefore is not covered by the Scope Rule. We do not find this semantic argument persuasive in light of the fact that the signal system was in fact activated by the breaking of the bonds on July 19, 1972. Carrier argues further that the work of permanently removing bond wires from scrapped rail is not necessarily exclusively reserved to Signal forces, citing as authority inter alia Award 20536 involving these same parties. We do not quarrel with the result in that Award nor

with other authority cited by Carrier to support its preposition that Signal forces do not have exclusive claim to removing bonding material from rail that has been scrapped or abandoned. See, e.g., Awards 12800 and 19127. But in our considered judgment Carrier's reliance thereon is misplaced and begs the question before us here. Indeed, Award No. 20536 is largely premised on the fact that the breaking of the bond wire was not followed by its repair or replacement. The instant case is directly inapposite in that here the bond wire was repaired and/or replaced.

Additionally, we find persuasive the plethora of awards cited by Petitioner for the principle that where the breaking of a track bond by other than Signal forces "had the effect of opening the circuit," then there was a violation of the Scope Agreement. See Awards 8069, 9614, 12329, 13607, 17359, 20526 and 20555. In the instant case the breaking of the bonds by Conant & Vogt employees on July 19, 1972 had the effect of opening the circuit. We are persuaded that a violation of the Scope Rule occurred.

The instant claim seeks eight (8) hours pay at the overtime rate for Signal Maintainer D. E. Matson in whose assigned territory Bridge No. 167.92 is located. Upon our review of the record we find no basis for the eight (8) hour claim and no indication of how much time was spent by the outside forces in doing the bond breaking work. Accordingly, we shall sustain the claim only to the extent of a minimum call of two hours and 40 minutes at the overtime rate pursuant to Rule 14 (b) of the controlling Agreement.

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.

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Claim sustained to the extent indicated in the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November 1975.