NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20926
Docket Number SG-20700

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(George P. Baker, Robert W. Blanchette and
(Richard C. Bond, Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the former New York, New Haven and Hartford Railroad Company:

On behalf of Foreman R. F. Litton, Signalmen J. J. Cunningham, R. D. Millet Jr., R. D. Millet Sr., and G. J. Platt, for twelve days pay each account Carrier bought and installed pre-wired relay cases at Needham, Mass., in violation of the Scope of the Signalmen's Agreement. /Case ERS NH-6/

OPINION OF BOARD: In November, 1972, five (5) pre-wired relay cases were installed by Carrier.

The Organization asserts a violation of its Scope Rule which specifically covers "signal circuit wiring" and which, according to the Employees, contains "no exceptions either expressed or implied."

Although Carrier concedes that the five (5) relay cases were pre-wired, it notes that they were purchased from the manufacturer in that condition. It appears, however, that all work necessary to install the relays, including any necessary wiring, was performed by the Claimants.

Carrier refers to a 1969 action as clear precedent for its actions - which the Employees label as a citation of "...a violation of a rule as a precedent to allow the Carrier to continue to violate the same rule." In any event, no evidence was presented to offset the Carrier's reference to the 1969 incident.

Moreover, Carrier specifically refers to that portion of the Scope Rule which limits its applicability to work performed in a shop or in the field, and states that there can be no claim to work performed on equipment which is not owned by the Carrier and that any right of the employees to work on such equipment can not accrue until such time as the equipment is to be installed on Carrier's property.

The Employees recognize that certain Awards of this Board run contrary to its claim herein, but place a reliance upon Award 9675, between these parties, stating that it expresses the more sound legal doctrine,

and that the doctrine of stare decisis dictates a sustaining Award. While we do not dispute the legal concepts expressed by the Organization, we are unable to conclude that Award 9675 speaks to the precise issues before us to the point that it requires the weight attributed to it by the Employees.

The Awards relied upon by Carrier, particularly 14179 and 17259, speak more directly to the point at issue and compel us to conclude that Carrier's action, as described in this Docket, was not prohibited by the Scope Rule.

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 Employes involved in this dispute are respectively Carrier and Employes 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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulus
Executive Secretary

Dated at Chicago, Illinois, this 16th day of January 1976.