

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21076
Docket Number SG-20775

Francis X. Quinn, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Robert W. Blanchette, Richard C. Bond, and
(John H. McArthur, 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 Pennsylvania Railroad Company:

SYSTEM DOCKET 756
EASTERN TERRITORY - PHILADELPHIA DIVISION CASE NO. 174

(a) Claim that the company violated Article 4, Section 5(a) of the Agreement when on Friday, September 25, 1970, between the hours of 4:00 p.m. and 10:30 p.m., they allowed one (1) signal inspector and two (2) signalmen from a foreign seniority district, Seniority District #2 and #3, and having no seniority on Seniority District #1, to perform work on the interlocking machine at Fair Tower, Trenton, N. J.

(b) Claim that Mr. W. A. Addayson, Foreman C&S and Mr. Walter Demarest and Horace H. Whittam, Signalmen C&S, all headquarters Newark, N. J., Seniority District #1, available and not used, be paid six and one half (6½) hours, at the punitive rate, the time made by the foreign district men who performed this work.

OPINION OF BOARD: The Carrier does not contend that its conduct was contrary to the rules of the parties' Agreement; instead, it asks that we excuse its deviation therefrom because it did not have employees contractually entitled to the work who were qualified to perform it.

Our awards on this subject are not unanimous and offer no clearly marked course for us to follow. In this case we will follow those which have heard a Carrier's request that its lack of qualified employees be considered. We are so moved because this record shows evidence that the Carrier had Seniority District #1 employees present to learn the work in question.

We are also constrained to comment that a meeting of the parties before the fact rather than afterwards might have foreclosed this dispute. We render this award with the specific notation that we intend no suggestion of precedent in similar instances between these or other parties.

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 disposed of per Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 19th day of May 1976.