

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21477
Docket Number SG-21267

Dana E. Eischen, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE:

(Robert W. Blanchette, Richard C. Bond, and
(John H. McArthur, Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM:

Claims of the General Committee of the Brotherhood of Railroad Signalmen on the former Pennsylvania Railroad Company:

Claim No. 1:

System Docket 1032

Western Region - Fort Wayne Division Case F-4-74

That on or about April 4, 1974 the Company violated Article 4, Section 5, Paragraph (a) and the Scope of our current Agreement between 12:00 Noon and 4:00 P.M. when it allowed C&S Forces not assigned to Seniority District #20 to come onto Penn Central property that is regularly assigned Seniority District #20 territory and perform what is commonly considered signal work.

That the Company pay claimants C&S Foreman C. R. Handy, Signalmen G. L. Viney and G. L. Silsinger, C&S Helpers A. J. Swisher and R. A. Morter one hour each at his respective time and one half rate for this loss of work opportunity, infringement and violation.

Claim No. 2:

System Docket 1033

Western Region - Fort Wayne Division Case F-5-74

That the Company violated the Scope of our current Agreement when it allowed a private contractor (Wolf Construction of Logansport, Ind.) to come onto Penn Central property on or about April 4, 1974 at approximately 4 or 5 PM and load onto highway transportation vehicles a number of several wooden type poles and transport same from Penn Central property. These poles were located approximately one quarter mile west of Van Tower, which is located at the west edge of Logansport, Ind. These poles were unloaded at various times by our C&S forces and were also moved from one location to another location to accommodate an industry to temporarily locate. This time they were also moved by our C & S forces.

That claimants, C&S Foreman C. R. Handy, Signalmen G. L. Viney and G. L. Gilsinger, C&S Helpers A. J. Swisher and R. A. Morter be paid two hours each, at his respective time and one half rate, for this loss of overtime opportunity and Scope of our Agreement violation. This time we claim is comparable to the time that the Wolf Construction Co. forces spent on Penn Central property.

OPINION OF BOARD: This claim involves the work of loading, transporting and unloading wooden telegraph poles and other signal equipment. The poles and equipment had been originally unloaded and stacked by Signal Department employes in Seniority District #20 for storage near Carrier's Van Tower at Logansport, Indiana. As events developed, however, these poles come ultimately to be used at Xenia, Ohio.

On the afternoon of April 3, 1974 a number of tornadoes struck across the Middle and Eastern United States. One of the areas most severely hit was Xenia, Ohio. Carrier's operations at that location were interrupted due to damage and destruction of many facilities. Among other services and equipment damaged were signal lines and poles. It was necessary therefore to dispatch to Xenia materials and equipment to effectuate repairs. On the afternoon of April 4, 1974 at Carrier's instructions, Signal Department employes from outside Seniority District 20 went to Logansport, loaded trucks with signal equipment and transported same to Xenia. Also an outside contractor (Wolf Construction Company) was utilized to load some of the wooden telegraph poles on trucks for transport to Xenia. The loading and dispatch of this material occurred between hours of 12 Noon and 5:00 P.M. on April 4, 1974.

Claimants on April 4, 1974 worked from 7:00 A.M. until 5:45 P.M. (i.e. including two hours at overtime pay) repairing pole lines damaged by a tornado at Thornhope, Indiana some 30 miles from Logansport. Under date of April 13, 1974 the Organization filed a claim that use of the Wolf Construction Company employes to load the poles was a violation of the Signalmen's Scope Rule. By separate letter of April 14, 1974 a claim was filed alleging that use of Signal forces other than Seniority District 20 employes to load and transport material stored at Logansport, Indiana violated Article IV and the Scope of the Agreement.

Review of the record developed on the property shows that the Organization concurs there was an emergency at Xenia, Ohio on April 4, 1974 due to the tornadoes which swept the area and destroyed signal communications. Claimants argue however, that the emergency at Thornhope, Indiana had subsided by April 4 and therefore they should have been called to perform the work of loading and transporting the poles and equipment from Logansport to Xenia. They base their claim to the work on the Scope Rule and alleged practice thereunder to assert what amounts to a territorial imperative to handle the materials stored in the geographic confines of their seniority district. Carrier points to the specific Scope Rule in the controlling Agreement plus a whole line of Awards interpretating same to support its position that Claimant were not contractually entitled to the work even if arguendo emergency conditions had not prevailed.

Careful analysis of the record convinces us however that on April 4, 1974 an emergency condition did prevail due to the tornadoes and resultant destruction of facilities and equipment at Xenia, Ohio. The

causal chain between this emergency at Xenia and the loading, transporting and unloading of poles and equipment from Logansport to the stricken area is direct, immediate and irrefutable. From the record before us we have no doubt that the work complained of at Logansport was performed by outside forces and signal employes from another district under the extraordinary condition of an emergency situation. We have long recognized the principle that a Carrier in an emergency has broader authority in assigning employes than under normal circumstances. Awards 20527, 19140, 16310, 15219, 14372, 13566, 12299, 9394 et al. There was herein proven no abuse of discretion nor bad faith exercise of these emergency powers by Carrier. We are constrained by the unassailable authority of these precedents to deny the claim. It should be noted that in so doing we find it unnecessary to reach the other substantive arguments raised by both 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 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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1977.