

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23835
Docket Number SG-23464

Herbert Fishgold, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Georgia Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Georgia Railroad - Western Railway of Alabama - Atlanta and West Point Railroad Company:

On behalf of S. H. Glover, Signalman, for all hours worked by Signal Foreman T. C. Wallace because he was permitted to operate company truck assigned to signal gang January 2 through January 31, 1979."

OPINION OF BOARD: Beginning on or about January 2, 1979, and continuing until January 31, 1979, Carrier assigned a signal gang consisting of a Foreman, one signalman, and two assistant signalmen to clear the right of way under the pole line along the Georgia Railroad near Augusta. While the signalmen were walking the line cutting the bushes, the Foreman drove the truck assigned to transport the signal gang along the pole line as the gang proceeded with their work.

The Organization asserts that the Carrier has violated Rule 3 of Article I - Classification, which prohibits a Foreman from performing work of the craft, except that specifically provided for in that rule, i.e., directing work of signal gang forces, and make inspection or test of the job under way, but not taking the place of another employee. The Organization maintains that the operation of the truck used by a signal gang is work that accrues to that craft, and the Foreman, in effect, took the place of another employee in violation of Rule 3.

The Carrier denies a violation, maintaining that neither the Scope Rule nor any other rule covers the performance of driving a gang truck, but rather it is incidental to the work of a gang and can be performed by any member of the gang.

At the outset, it is clearly established that the Organization, as the moving party, has the burden of submitting evidence with sufficient probative value to support its position. Here, although the Organization alleges that the work of driving the gang's truck is assigned specifically to the classification of signalman and, thus, under the Scope Rule, belongs exclusively to that particular classification, nowhere in the language of the Rules can it be found that signal work includes the operation of a truck. In addition, while there are general assertions that signalmen have always driven the gang truck while at work, there was no evidence to counter the Carrier's contention that the task of driving the gang truck is incidental to the duties of the gang, and has historically been performed by all members of the gang, including the Foreman, and not solely by one classification.

Finally, while the claim only involves the incident occurring in January, 1979, the Organization argues that as of June, 1978, two assistant signalmen were furloughed from the gang, and asserts that the Foreman began taking up the slack created by two abolished jobs by driving the gang's truck. However, we find that, in addition to the lack of any past practice or agreement provision to support the claim, the Organization has failed to submit any evidence to support this additional argument beyond the fact that the Foreman drove the truck on the dates in question as a means of keeping the vehicle used for transporting the gang in close proximity while all members were on duty and under pay.

In conclusion, under the circumstances herein, the Organization presented nothing to us which would warrant us to find other than that the act of driving the truck in January, 1979, was not directly related to the actual maintenance work of the signalmen clearing the right of way, but was simply incidental to the duties of the signal gang and thus can be performed by any member. Accordingly, we will dismiss the claim because of a failure of proof.

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 Employee involved in this dispute are respectively Carrier and Employee 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 dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant



Dated at Chicago, Illinois, this 26th day of March 1982.