



Award No. 16520
Docket No. SG-16825

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company et al, that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when it contracted to Acme Electric Construction Company the replacement of an aerial cable on the Savannah River Bridge, at or near Mile Post R-190, used to control signals in connection with the old Hamburg Interlocking Plant. The contracting company used:

Four (4) men for a total of 20 man-hours on September 7, 1965

Five (5) men for a total of 40 man-hours on September 8, 1965

Six (6) men for a total of 42 man-hours on September 15, 1965

in the performance of this Signal Work. The men working for Acme have no seniority or any other contractual right to perform recognized Signal Work.

(b) Carrier be required to pay Signal Maintainers J. L. Holsenback, Jr., P. G. Lotshaw, and B. H. Bradshaw for a total of one hundred and two (102) hours on a prorated basis at their respective straight time rates.

[Carrier's File: SG-22858]

EMPLOYEES' STATEMENT OF FACTS: This dispute, like others from this property, of which some have been decided by the Division and several are awaiting adjudication, involves the performance of Signal Work by persons not covered by the Signalmen's Agreement.

In connection with the discontinuance of the Old Hamburg Interlocking which protected the draw-bridge over Savannah River, at Mile Post R-190, in the vicinity of Augusta, Georgia, it was necessary to replace approximately 1000 feet of aerial Cable which carried Signal Control circuits. New Signal Cable was installed, and old Signal Cable was taken down.

OPINION OF BOARD: This is another of a number of disputes that have been before this Board involving the same parties, and the subject of contracting work.

To provide proper clearance from the center of Carrier's single track across the Savannah River Bridge, it was necessary for the aerial cable on the inside of the bridge trusses to be removed and a cable installed on the outside trusses of the bridge. The Carrier contracted with Acme Electric Construction Company, Inc., Augusta, Georgia, to perform the work of stringing and stretching the cable across the river and attaching it to the outside of the bridge trusses and for removal of the old cable from the inside of the bridge trusses. The Carrier states that the contractor used a winch operated line truck to install the cable on the outside of the bridge trusses and to remove the old cable from inside the bridge trusses, and that the Carrier had no such equipment.

The Petitioner contends that the work involved was signal work comprehended by the Scope Rule; that that portion of the Scope Rule reading:

"It having been the past practice, this Scope Rule shall not prohibit the contracting of larger installations in connection with new work nor the contracting of smaller installations if required under provisions of State or Federal law or regulations, and in the event of such contract this Scope Rule 1 is not applicable. It is not the intent by this provision to permit the contracting of small jobs of construction done by the carrier for its own account."

is not applicable and that special equipment was not needed to perform the work.

We agree with the Petitioner that the work involved was signal work comprehended by the Scope Rule. We also agree that that portion of the Scope Rule heretofore quoted pertaining to the contracting of work is not applicable.

While the Board has upheld the contracting of work comprehended within the Scope of Agreements where special equipment is required for the performance of the work, in the present case the Carrier has not, in our opinion, proved that special equipment was actually needed. We find, therefore, that the Agreement was violated by the performance of the work by the contractor.

Argument has also been made by and on behalf of the Carrier that as Claimants suffered no loss they are not entitled to damages. There have been numerous Awards "pro" and "con" on this feature involving the same parties. We will follow the line of Awards (15888, 15874, 15689, 15497, 16376 among others) that have allowed pay at pro rata rate. We will, therefore, sustain the claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of July 1968.