



Award No. 17108

Docket No. SG-17285

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(SUPPLEMENTAL)

Jan Eric Cartwright, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Central of Georgia Railway Company that:

- (a) Carrier arbitrarily arranged and permitted a violation of the Signalmen's Agreement by contracting signal work to persons not covered by the Agreement and who hold no seniority or other rights under the Agreement—thereby depriving the Carrier's own Signal Employees of signal work to which they are entitled under the Agreement and for which they should be compensated.
- (b) Messrs. T. J. Gassett, E. E. Murdock, J. R. Proctor, I. K. Dean, A. T. Jones, O. E. Kitchings, Jr., J. L. Gassett, N. L. Johnson, and all other Signal Employees who are, or may be adversely affected by the signal work being done by contract or by the Union Switch & Signal Co. and its forces—between Barnesville and Atlanta, Ga., as involved in this case—be compensated at their respective overtime rates of pay, on a proportionate basis, for all man-hours of signal work performed by the contractor and its forces; claim to begin on the date the contractor started the signal work between Barnesville and Atlanta, Ga., or sixty (60) days prior to the date of this claim (April 19, 1966), and to continue thereafter so long as the signal work is performed by the contractor and its forces, or until the violation has been corrected.
- (c) Carrier make a check of its records in cooperation with the Organization, in the event of a favorable decision, to determine the number of man-hours of signal work done by the contractor, or the amount of money paid to the contractor and its forces, in order to determine the hours and/or pay that would be due each of the Signal Employees involved in this claim. (Carrier's File: SIG-491)

EMPLOYEES' STATEMENT OF FACTS: This dispute, like others from this property including Docket SG-16808 and NRAB-1744-C.ofGa., involves the performance of Signal Work by persons not covered by the Signalmen's Agreement.

indefinite, improper and baseless 'claim' remains respectfully declined in its entirety as per my letter of September 19, 1966."

The foregoing correspondence shows that this vague, indefinite and improper claim was declined by each and every officer of the Carrier.

On April 16, 1965, Carrier entered into a so-called stabilization of employment agreement with employees of the signalmen's class or craft, a copy of which agreement is on file with your Board and is, by reference, made part and parcel of this submission as though reproduced herein word for word.

Under the April 16, 1965 agreement, all the claimants named except J. R. Proctor are "protected employees" and under Article IV of such agreement are not to be placed in a worse position with respect to compensation than the normal rate of compensation of positions to which assigned on October 1, 1964 plus any subsequent general wage increases. J. R. Proctor is a relatively new employee. The "protected employees" are guaranteed the rate of compensation received on October 1, 1964 so long as they protect their rights and until such time as they retire, die or are discharged for cause. Having been guaranteed lifetime pay under the conditions outlined in the referred to agreement, they cannot expect more.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier contracted with outside forces (Union Switch & Signal Co.) to install a Traffic Control System (C.T.C.) over approximately 40 miles of its line between Griffin and Atlanta, Georgia.

The Organization contends that the Scope Rule of the Agreement was violated when Carrier contracted with outside forces to perform the work in question.

The Scope Rule is clear.

"SCOPE

This agreement covers the rates of pay, hours of service and working conditions of all employees, classified herein, engaged in the construction, installation, repairing, inspecting, testing and maintenance of all interlocking systems and devices; signals and signal systems; wayside devices and equipment for train stop and train control; car retarder and car retarder systems; centralized traffic control systems operative gage mechanism; operative high-way crossing protective devices; spring switch mechanism; electric switch targets together with wires and cables; iron train order signals; signal cantilevers, power or other lines, with poles, fixtures, conduit systems, transformers, arrestors and wire or cables pertaining to interlocking and signal systems; interlocking and signal lighting; storage battery plants with charging outfits and switch board equipment; sub stations, current generating and compressed air plants, exclusively used by the Signal Department, pipe lines and connections used for Signal Department purposes; carpenter, concrete and form work in connection with signal and interlocking systems (except that required in buildings, towers and signal bridges); together with all appurtenances pertaining to the above named systems and devices, as well as any other work generally recognized as signal work."

This dispute is identical to the claim presented in Docket No. SG-16808, Board Award No. 16691, involving the same parties.

Carrier contends that the Agreement was not violated; that the claim presented is vague and indefinite; that the work involved was a very large project; that no signal employees were available; that Carrier can not be required to make a check of its records to determine the hours worked; and that Claimants suffered no pecuniary loss as a result.

The Board finds that the Carrier knew the basis and issues in the claim, and these same issues have been involved in prior claims between the parties. The Scope Rule is unambiguous and it is clear that the work performed by contractors forces was covered by the Agreement. The contention that the project was too large for its employees fails for lack of proof, as does the contention of lack of qualified or available employees.

A violation of this contract is not limited to lost earnings of Claimants, but the loss of opportunities of earnings must also be considered.

The Board must therefore find that the Agreement has been violated and the claim must be sustained.

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 Employees 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 violated.

A W A R D

Claim sustained at pro rata rate.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May 1969.