

Award No. 13910
Docket No. SG-13465

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE BELT RAILWAY COMPANY OF CHICAGO

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Belt Railway Company of Chicago that:

(a) The Carrier violated the Signalmen's Agreement when, on or about November 11, 1960, it assigned employes not covered by the Signalmen's Agreement to install a self-operated car retarder on Track 3, in the East Class Yard, Clearing, Illinois. Also, the Carrier has violated and continues to violate the Signalmen's Agreement by assigning the maintenance of the retarder to other than signal forces.

(b) The following employes be compensated at their respective rates of pay for an amount of time equal to that spent by employes not covered by the Signalmen's Agreement in performing the work of installing and maintaining this car retarder:

Foreman

O. Stevens

Assistant Signalmen

D. Boness

D. Kamer

Signalmen

H. Ronczkowski

C. Fraser

W. Longhouser

J. Basile

V. Zoller

Helpers

R. Powers

J. Muszynski

A. Walberg

EMPLOYES' STATEMENT OF FACTS: The work involved in this dispute is that connected with the installation and maintenance of a mechanical car retarder on Track No. 3 in the East Yard of the Carrier's Clearing, Illinois Classification Yard.

All work in connection with the installation and maintenance of the Clearing Retarder System heretofore has been performed by signal employes under the Scope Rule of the Signalmen's Agreement.

Way forces. Clearly, therefore, this Board should not proceed to hear or issue an Award on this case until such time as the Brotherhood of Maintenance of Way Employes has been notified of such hearing and given an opportunity to participate in accordance with the provisions of the Railway Labor Act.

OPINION OF BOARD: This claim involves the right to install and maintain a device used to stop cars at the end of a classification track. The device was installed by Maintenance of Way Employes and replaced a skate. It consists of spring-loaded rails which apply a braking force to both rim and flange of each pair of wheels. It is mechanically self-operated by friction, and has no connection with any signal system, control panel, or any other device.

The claim is based upon the Scope Rule, which reads as follows:

"These rules shall constitute an agreement between The Belt Railway Company of Chicago and Signal Department employes, of the classifications herein set forth, engaged in the installation and maintenance of all signals, interlockings (not including such equipment on rolling stock), highway crossing protection, excluding highway crossing gates not operated in conjunction with track or signal circuits, but including electrically operated crossing gates, and the repair and adjustment of signal relays and the wiring of signal instrument cases, and the maintenance of car retarder systems, and all other work in connection with installation and maintenance thereof that has been generally recognized as signal work, represented by the Brotherhood of Railroad Signalmen of America, and shall govern the hours of service, working conditions and rates of pay of the respective positions and employes of The Belt Railway Company of Chicago, specified herein, namely, inspectors, assistant inspectors, foremen, assistant foremen, leading maintainers, leading signalmen, signal maintainers, signalmen, assistant signalmen and helpers."

The claim is also based upon the fact that the manufacturer calls it a mechanical car retarder.

It is our opinion that the key word in the Scope Rule is car retarder "systems", that the parties intended to grant the Signalmen exclusive jurisdiction not over a mere mechanical device which would slow or stop a car, but the complicated, interrelated, electrically or pneumatically controlled series of devices which could be called a system. Any other reading of the Scope Rule would put a premium upon the literal as opposed to the conceptual meaning of the word. Although it is literally true that this device could be called a car retarder, it cannot be called a part of the car retarder system as conceived by the parties. The literal approach would place every skate and car bumping device under the scope of the Signalmen's jurisdiction, which evidently was not in accord with their intention.

An effort was made in this case to relate this device to other devices in this classification yard so as to justify the complex as a system. A system is more than a series of devices. It is defined in the dictionary as "an assemblage of objects united by some form of regular interaction or interdependence; an organic or organized whole." The car retarder involved here acts independently, and has no interaction, regular or irregular, with any other device, and cannot be deemed part of a system.

The facts in this case distinguish it from those in Award 12300, which involved an electrically operated device. Award 12968 was decided on different grounds, that the device was not a stopper. While we regard the device used in our case as a stopper, we do not think the semantic distinction as sound as the one we have made, that the device was isolated and unconnected with any other similar device, and cannot hence be deemed part of a system.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of October 1965.

DISSENT TO AWARD NO. 13910, DOCKET NO. SG-13465

Award No. 13910 is in error. The Majority is correct in only two points, i.e., in their acknowledgment that work on car retarders they describe as "complicated, interrelated, electrically or pneumatically controlled series of devices which could be called a system" is reserved to signalmen and in their not finding error in Awards Nos. 12300 and 12968.

In all other respects, their play on semantics, their creation of the irrelevant issue of skates and bumping posts, and their refusal to follow the well reasoned precedent in Award No. 12968, and they are in error.

Award No. 13910 is in error; therefore, I dissent.

/s/ W. W. Altus
For Labor Members
11/19/65