

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 19959
Docket Number SG-19645

Irwin M. Lieberman, Referee

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the General **Committee** of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Pacific Lines):

(a) 'That the Southern Pacific Transportation Company has violated and continues to violate the Memorandum of Agreement between the Southern Pacific Company (Pacific Lines) and the **Employees** of the Signal Department represented by the Brotherhood of Railroad Signalmen, SIG 116-56, dated November 30, 1960, and particularly Paragraph 10 of the **Memorandum** which specifically provides that Air Conditioning among other facilities shall be provided at the Sacramento Signal Shop.

(b) We request that the Wiring and Blacksmith Shop sections of Sacramento Signal Shop be promptly provided with Air Conditioning as specified in Memorandum of-Agreement in lieu of the **Swamp** Coolers and portable fans now provided. Carrier's File: Sig 60-397

OPINION OF BOARD: In June 1961 Carrier established a System Signal Shop at Sacramento. This shop occupies two buildings **accommodating** four different work activities: a machine shop, relay shop, wiring shop and blacksmith shop. We are concerned herein with the building occupied by the wiring shop and the blacksmith shop. In contemplation of the establishment of the System Signal Shop, the parties entered into a Memorandum of Agreement effective November 30, 1960 which provided among other items in Section 10:

"10. Adequate heat, air conditioning, washing and toilet facilities shall be provided at the new Sacramento Shop..."

Petitioner contends that **the evaporative** air cooling system with auxiliary fans installed by Carrier in 1961 is neither air conditioning nor adequate as provided in the Agreement of November 1960. Petitioner presented no evidence whatever on the property in support of its position, although some data concerning temperatures inside the facility, which must be disregarded, was submitted during the processing before this Board. We do not agree with Petitioner's **contention with** respect to the system, since we hold that "air conditioning" is a generic term which applies to both evaporative and refrigerative systems.

Most importantly, disregarding Carrier's speculative assertion with respect to the Organization's motivation in bringing this claim, we recognize the interest of both parties in their being satisfactory working conditions for the **employees** affected. Since the record discloses no probative evidence with respect to the adequacy of the cooling system and since there were no complaints for almost ten years, we can find no support for the Organization's position. We have held in many Awards over the years that when there is any doubt as to the intent of the parties or the meaning of an ambiguous contract provision, the conduct of the parties over a period of time is the best evidence of their intent (Awards 14240 and 14936 for example). Although we cannot find for the Petitioner for the reasons indicated above, we are certain that the essential mutuality of interest of both parties in resolving the issue herein will assist them in finding a proper solution to the problem.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulose
Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1973.