

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **24042**
Docket Number SG-24167

Irwin M. Lieberman, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE:

((Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company:

(a) The carrier violated and continues to violate the current Signalmen's Agreement bearing effective date of June 1, **1951**, especially the Scope Agreement by assigning and/or permitting other than Signal Dept. employes to maintain the car retarders at Escanaba Ore Dock, Escanaba, Michigan.

(b) **Carrier** should now be required to compensate Signal **Maintainer** Mr. W. R. Day, headquartered at Escanaba, Michigan two (2) hours per week, at his overtime rate of pay, which is the amount **of** time spent by **other** than Signal Dept. employes, starting sixty (**60**) days prior to the date of this claim and continuing until this violation is corrected, **and** this work be assigned to the **Signal Mtnr.**"

OPINION OF BOARD: **The** issues presented in this dispute are neither unique or new on this **property**. Initially the Board finds that the question of timeliness raised **by Petitioner** is not controlling, since the record indicates that the **Carrier's** response was indeed timely (within the sixtydayperiod).

On the merits, the issue herein on this property has been presented in Awards **12968, 12925** and **22667**. Also, closely similar problems have been dealt with in Awards **13910** and **14777**. **The Latter two** Awards held that devices similar to that at issue herein cannot be considered to constitute a "car retarder system", as distinct from the holding in Award **12968**. In addition, the Board in Award **12968** found the device in dispute ". . . to **be a** retarder and not a **stopper**." **In** this case, as distinguished from Award **12968** the Carrier has maintained that the old retarder was replaced with a device designed to stop rather than **retard**; this evidence was not contested.

While the Board recognizes that the Scope Rule reserves the work associated with car retarder systems to employes covered by the Agreement, the Board considers the reasoning expressed in Awards **13910** and **14777** to be controlling in this dispute, the device herein was not a car retarder system. Thus, the Claim must be denied.

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: Acting Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at **Chicago**, Illinois, this **29th** day of November **1982**.

