

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36586
Docket No. SG-36376
03-3-00-3-566

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad Company:

Claim on behalf of B. A. Brinker, C. W. Lynch, A. Jett, S. L. Johnson, and K. J. Svejksky for payment of 36 hours each at the straight time rate, account Carrier violated the current Signalmen’s Agreement, particularly the Scope Rule, when it used a contractor to repair four retarder cylinders for use at the North Platte Hump Yard, in North Platte, Nebraska, and deprived the Claimant of the opportunity to perform this work. Carrier’s File No. 1200966. General Chairman’s File No. 91sc2190. BRS File Case No. 11309-UP.”

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The five named Claimants in this case were assigned to various Signalmen positions at the Hump Yard in North Platte, Nebraska. By letter dated June 24, 1999, the Organization presented a penalty claim requesting payment of "seven hours and twelve minutes each" to the named Claimants because the Carrier allegedly utilized an outside company to repair four retarder cylinders in violation of the Scope Rule of the Agreement. The Carrier denied the claim as presented contending that the retarder cylinders which were received by the Carrier on May 5, 1999, were remanufactured cylinders of a new design and were not "repaired" units as alleged by the Organization. The claim as originally submitted was subsequently handled at all levels of on-property claims handling without reaching a resolution of the dispute. Eventually, by letter dated September 7, 2000, the claim as outlined in the "STATEMENT OF CLAIM," supra, was submitted by the Organization to the Board. It is noted that the claim as listed with the Board requests payment of "36 hours each" to the five named Claimants.

The Organization argued that the repair of retarder cylinders is specifically covered by the language of the negotiated Scope Rule and that, in this instance, the Carrier had simply removed the retarder cylinders from the Hump Yard and sent them to an outside contractor for repairs.

The Carrier's defense of its position lies in the fact that the retarder cylinders here involved were not removed from the Carrier's property and sent to a contractor for repairs, but rather were retarder cylinders that were pre-assembled purchases from a supplier and, as such, were not subject to the provisions of the Scope Rule.

The purchase of finished products has been considered on numerous occasions by the Board with the same result. The Board has consistently held that disputes of this nature do not deal with work performed on the parties' property. Rather, they deal with products manufactured and assembled at a factory or other facility where the parties' negotiated Scope Rule has no force or effect. The purchase of equipment is a function of management and the purchase of remanufactured, pre-assembled products does not violate the language or intent of the Scope Rule. For examples of such decisions in this regard see Third Division Award 33472 and the plethora of similar Awards cited therein.

The claim as presented in this case has no merit and is denied.

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AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 16th day of June 2003.