

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19256
Docket Number SG-16204

Clement P. Cull, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Southern Pacific Company (Pacific Lines)

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

(a) The Southern Pacific Company violated the current Signalmen's Agreement (effective April 1, 1947; reprinted April 1, 1958, including revisions) when it failed and/or declined to apply the Scope Rule, which resulted in violation of Rule 70 of the agreement, by not assigning signal work to employes covered by the Signalmen's Agreement on November 6, 9, 10, 17, 18, 20 and 23, 1964.

(b) Messrs. Lambert, Walker, Meakins, Nichols, Hanson and Dehle be allowed eight (8) hours each at their respective time and one-half overtime rates for each date shown above, or a total of fifty-six (56) hours each, for the time worked by employes not covered by the Signalmen's Agreement installing car retarders at the Eugene Car Retarder Yard at Eugene, Oregon.

(Carrier's File: SIG 152-174)

OPINION OF BOARD: The dispute herein involves the assembly and installation by trackmen at the end of the classification tracks (referred to as the "bowl" tracks) in the Carrier's retarder yard (referred to as the "bowl") in Eugene, Oregon, of a device which stops and hold cars moving by gravity from the hump. The device is purely mechanical. It does not depend upon any electrical or pneumatic system and is not connected to any signal system. It, is in short, an independent unit. The device is set at a predetermined pressure and the desired effect is achieved when the weight of the car depresses the running rail and solely through mechanical linkage the cars are stopped and held when the stopper rails compress the car's wheels. The device performs the same function as "skates".

Petitioner contends that the device is part of the car retarder system and relies on its Scope Rule, which reads in relevant part as follows:

"(a) This agreement shall apply to work or service performed by the employees specified herein in the Signal Department, and governs the rates of pay, hours of service and working conditions of all employees covered by Article 1, engaged in the construction, reconstruction, installation, maintenance, testing, inspecting and repair of wayside signals, pole line signal circuits and their appurtenances, interlocking,

"spring switch locking devices, highway crossing protection devices and their appurtenances, wayside train stop and train control equipment, detector devices connected with signal systems, including centralized traffic control systems, car retarder systems and hot box detectors and"

Carrier refers to the device in the record as both a car stop and as a "mechanical retarder". It contends that the device is not covered by the Scope Rule as it is an independent unit having no connection whatever with the signal system, asserting that the Rule applies only to car retarder systems that are connected to the signal system.

Similar cases have been before this Board involving other properties. The results are mixed. Award 12300 in which Petitioner's claim was sustained involved an electrically operated device and is clearly distinguishable from the herein claim. Award 12925 which followed, denied Petitioner's claim on the basis that "these devices are stoppers, not retarders." Award 12968, in awarding the work to Signalmen, found that a similar device (the only apparent difference being that the device therein had spring loaded rails) was a retarder and not a stopper and was covered by a Scope Rule similar to the one involved herein. Thereafter, Award 13910, involving a similar device (also spring loaded), found that under a similar Scope Rule that the device being "isolated and unconnected" was not part of the car retarder system. Award 14777 adopted Award 13910 and also denied Petitioner's claim.

We have considered the record, the case citations, and the arguments and contentions of the parties as well as the submission of the Intervenor, Brotherhood of Maintenance of Way Employes, and are of the opinion that Award 13910 is the sounder award. Accordingly, we will incorporate it herein by reference and will deny the claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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

Award Number 19256
Docket Number SG-16204

Page 3

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: E.A. Killam
Executive Secretary

Dated at Chicago, Illinois, this 9th day of June 1972.