

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19854
Docket Number SG-19584

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Louisville and Nashville Railroad Company

STATEMENT OF CLAIM: (a) Carrier violated the current Signalmen's Agreement, as amended, particularly the Scope, when, on April 6 and 7 and May 27, 1970, Communication employees or persons not covered by the Signalmen's Agreement were used to perform recognized signal work in connection with installation of Automatic Car Identification apparatus at South Park, Kentucky.

(b) Carrier should now be required to compensate the six (6) senior signalmen of Louisville Division Signal Gang No. 12 for eight (8) hours each at their respective straight-time hourly rates for April 6 and 7, 1970; and five (5) senior signalmen of said gang for eight (8) hours each for May 27, 1970, plus all time spent on the project by Sylvania employees and all time Wabco employees are used installing and testing the apparatus at the referred-to location.

(Carrier's File: G-304-9; G-304)

OPINION OF BOARD: This dispute concerns persons not covered by the Signalmen's Agreement installing Automatic Car Identification apparatus.

The same basic issue and Scope Rule, involving the same parties, was considered by this Board in Award 19259 (Devine). After consideration of contentions similar to those urged before us, the Referee, in No. 19259, concluded that:

"...., the Board finds that the Petitioner has not proved with probative evidence that the Automatic Car Identification apparatus is in fact a part of the signal system. The fact that the apparatus is activated by the signal circuit does not in and of itself make the equipment part of the Carrier's signal system. The claim will be dismissed for lack of proof."

This Board has considered the entire record and concludes that the Organization has not produced probative evidence of a nature to suggest a result contrary to the one contained in Award 19259. Accordingly, the claim will be dismissed.

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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 Claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1973.