

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24042
Docket Number SG-24167

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ 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. employees 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. employees, 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 sixty day period).

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 employees 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
Rosemarie Brasch - Administrative Assistant

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