

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24723  
Docket Number SG-24560

George V. Boyle, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Southern Railway Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company, et al:

(a) The Signalmen's Agreement was violated, particularly Scope Rule 1, when the Carrier instructed or permitted Assistant Superintendent Fowler to clear a failure on the 16-2 retarder at Norris Retarder Yard on March 28, 1981, sometime between the end of the Second Shift at 12 Midnight and 4:00 A.M.

(b) Carrier should now be required to compensate Signal Maintainer O. S. Gilreath an amount equal to a minimum call of two (2) hours and forty (40) minutes at the overtime rate of pay because Assistant Superintendent Fowler, who is not covered by the Signalmen's Agreement was permitted to perform work assigned to signal employees covered by the Scope of the Signalmen's Agreement." (General Chairman file SR-231. Carrier file SG-505).

OPINION OF BOARD: The petitioner complains that certain work which was performed by a Carrier Officer at Norris Retarder Yard is reserved to the Employees it represents, particularly in this instance to the Claimant.

Assuming, arguendo, that we hold the Carrier in violation of the parties' Agreement, it appears from the present record that had the Claimant been called for the work in dispute, he would have completed both that work and the repairs that he did make within the same minimum used period without an intervening release from duty.

For that reason and since Claimant was paid a minimum call, we cannot award him more. This claim must be dismissed without our rendering a decision regarding the alleged Agreement violation.

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 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

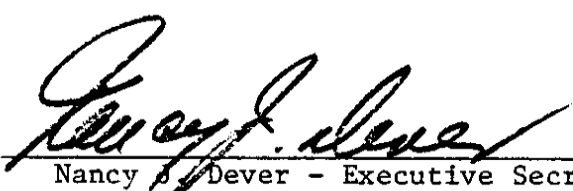
That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March, 1984.

APR 27 1984