

Public Law Board No. 1922

PARTIES  
TO  
DISPUTE:

United Transportation Union (Switchmen)

and

Southern Pacific Transportation Company

STATEMENT  
OF  
CLAIM:

Org. File 073-70

Co. File YDM 148-16779

Claim is made for a day's pay at the yard rate of payment applicable for the three switchmen standing for service at 11 a.m. November 9, 1973, Oakland Yard.

A similar claim identified by Org. File 074-41, Co. File YDM 148-17400, should also be covered by the decision in this case.

FINDINGS:

Pacific Pipe Company employes, using a truck crane vehicle, switched four cars from their industry track, across a public street and then onto the Southern Pacific head track which was lined by Pacific Pipe employes.

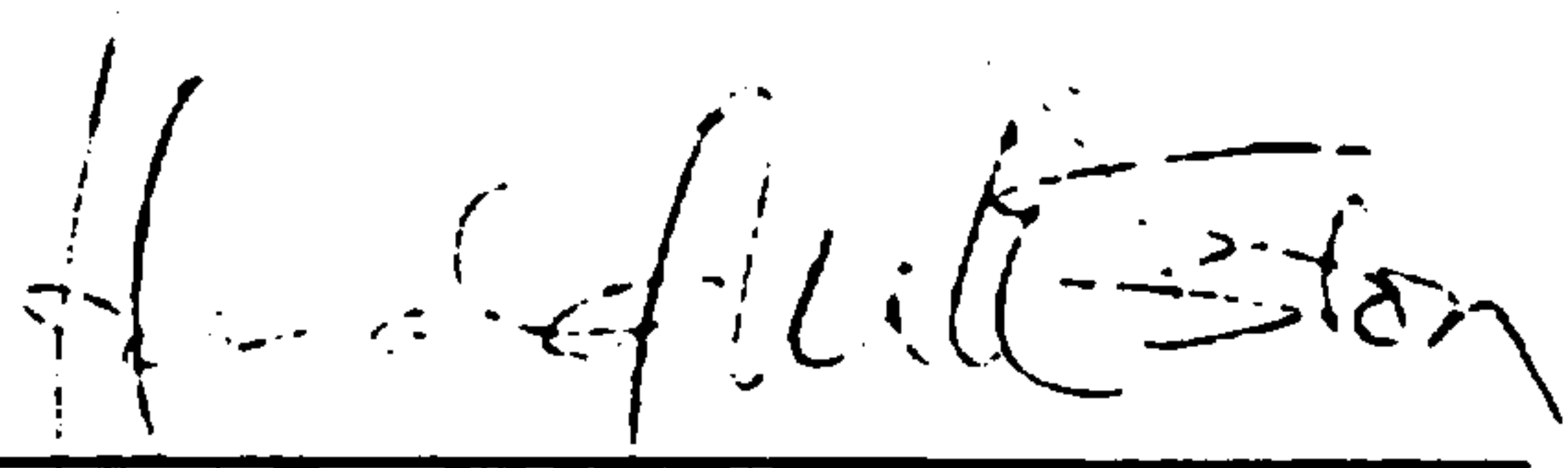
These moves were made without Carrier's consent or knowledge.

The case is distinguishable on its facts from the situation we considered in Award 90. Here the work complained of represented an isolated instance, the last such invasion by Pacific Pipe employes having taken place in 1970. On September 25, 1973, about six weeks before this incident occurred, Carrier not only ordered Pacific Pipe to cease and desist from moving cars onto the lead track, but, in addition, it issued instructions to all switchmen and yardmasters to lock the switch in question when not in issue.

On the basis of the evidence presented by the parties, we are not persuaded that the incidents occurred because of Carrier's inaction, negligence or other fault. The claim will be denied. The result would be different for subsequent movements of the same nature by Pacific Pipe if Carrier neglects to take further action to protect its switchmen's work.

AWARD: Claim denied.

Adopted at San Francisco, California, February 21, 1979.



Harold M. Weston, Chairman



Carrier Member

*Dissent*

Employe Member