

Award No. 16008
Docket No. SG-15969

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

NEW ORLEANS & NORTHEASTERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the Brotherhood of Railroad Signalmen on the Southern Railway Company et al. that:

Signal Maintainer C. E. Miller, North Shore, Louisiana, who was suspended for alleged violation of Rule 36(a) of the Signalmen's Agreement and failure to protect his assignment on December 8, 1964, should have his personal record cleared of these charges and be paid for all time in work hours lost December 8 to December 21, 1964, while held out of service and not permitted to work his regular assignment.

[Carrier's File: SG-20820]

OPINION OF BOARD: The essential facts involved in this discipline case are not in issue. Claimant was suspended by Carrier for ten days for violation of Rule 36(a) of the Agreement on December 8, 1964 and his resulting failure to protect his assignment on that date. Petitioner initially urges that Claimant did not violate Rule 36(a) and, further, that the penalty imposed was arbitrary and capricious even if Claimant is found in technical violation of said rule.

Rule 36(a) provides as follows:

"(a) Signal maintainers assigned to regular maintenance duties, recognizing the possibility of emergencies in railway operations, shall notify the train dispatcher on their division where they may be called and will respond promptly when called."

The record discloses that Claimant's family resided in Picayune, Mississippi pursuant to an agreement with Carrier, which is outside Claimant's assigned territory as a Signal Maintainer. However, it was further agreed that the Claimant would reside in North Shore, Louisiana during his regular work week and when subject to call by Carrier. On December 8, 1964, Claimant completed his regular eight-hour shift, but was subject to call thereafter by Carrier. At approximately 4:20 P.M., he called the dispatcher from North Shore, but failed to advise him that he was going to Picayune for the evening. Subsequently, he was needed for signal repair work (block signals) and the dispatcher was unable to reach him at North Shore, Loui-

siana. Ultimately, a supervisor reached him through a long distance telephone call to Picayune, Mississippi. Claimant finally performed the assignment after two of Carrier's trains had been delayed.

Petitioner contends that Carrier had Claimant's telephone number in Picayune, Mississippi, and that the dispatcher on duty could have reached him directly. Carrier relies on the clear and unequivocal language of Rule 36(a), as well as Claimant's agreement to reside in North Shore during his regular work week and while subject to call, in support of the discipline imposed.

In view of the foregoing, it is apparent that Claimant failed to notify the train dispatcher where he could be called after 4:20 P.M. on December 8, 1964, as required by Rule 36(a) of the Agreement. Claimant was obligated to do so, despite the fact that his supervisor knew how to reach him in Picayune, Mississippi.

The penalty imposed resulted from a rule violation by Claimant, and it is well established that the Division will not overturn such a decision unless the discipline imposed was unfair, capricious or arbitrary. Awards 15828, 14358, and others. Under the circumstances found in this dispute, suspension of Claimant by Carrier does not constitute an abuse of discretion, and we should not substitute our judgment for that of the Carrier. Accordingly, we 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 Employee involved in this dispute are respectively Carrier and Employee 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of December 1967.