

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20748

Docket Number SG-20706

Francis X. Quinn, Referee

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

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

On behalf of Leading Signalman C. B. Wham, C & S Construction Gang No. 4, Lines East, for a total of 110 hours additional pay at over-time rate for time consumed by contractor's operator and backhoe machine used to dig ditch for signal cable in the area of Cleveland, **Tenn.** during period February 12 to March 1, 1973, account Carrier using outside contractor in violation of the Scope, Rule 1, of the current agreement. (Carrier's File: SG-41078)

OPINION OF BOARD: 1. Carrier does not deny that the machine work involved is signal work, not covered by the exception in the Scope **Rule.**

2. The Carrier has contended from the beginning, however, that it did not have available a machine for the ditching work **involved**, and that it was unable to rent a ditching machine without an operator.

3. The Claimant was instructed to remain with the machine during all the time it was in operation - just as though he were the operator. This is not disputed by the Petitioner, nor is there any showing that he performed other work while the ditching work was being performed.

Therefore 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 **Employces** involved in this dispute are respectively Carrier and **Employes** 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

Award Number 20740
Docket Number SG-20706

Page 2

That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A.W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 30th day of May 1975.