

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 21496
Docket Number CL-21349

Robert M. O'Brien, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**

PARTIES TO DISPUTE: (

(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood
(**GL-7915**) that:

(1) Carrier arbitrarily deducted \$733.62 from the earnings of Agent **J. E. Fagan** at Piedmont, Alabama, for alleged **overpayment** of calls for the months of **April, May** and June, 1974.

(2) Carrier shall reimburse Agent **J. E. Fagan** \$187.31 deducted from his July, 1974, earnings and \$546.31 deducted from his August earnings, for an aggregate of \$733.62.

OPINION OF BOARD: Riot to April 1, 1974, the flag station at Wellington, Alabama was governed by the agency at **Ragland**, Alabama. Effective April 1, 1974, however, Piedmont, Alabama was made the governing agency for Wellington. Claimant is an Agent-Operator assigned to the Piedmont agency. Effective April 1, 1974, Claimant was advised by **Train-**waster Lockwood to pick up the interchange information from Wellington. This necessitated Claimant driving to Wellington three days a week.

The Organization contends that Claimant had an understanding with Trainmaster Lockwood and with Assistant Superintendent Mobley to the effect that he would be-entitled to a call plus mileage each time he made a trip to Wellington. The record further establishes that Claimant turned in time tickets for a call each day that he went to **Wellington, which time** tickets were approved and paid by the Carrier up to August 2, 1974: **On** August 2, 1974, however, Superintendent J. W. Thomas wrote Claimant that there was nothing in the controlling Agreement to warrant the call for his trip to Wellington. Thereafter, Carrier deducted the **money** that had been paid to Claimant for each call on and after April 1, 1974. The Organization insists that Carrier arbitrarily deducted the **money** paid to Claimant for making the trip to Wellington, and they herein request that Claimant be reimbursed this amount deducted.

It is significant to note that nowhere in the record has Carrier denied the existence of an understanding between Claimant and Trainmaster Lockwood and Assistant Superintendent Mobley assuring that Claimant would be paid a call for each trip that he made to Wellington. Moreover, between April 1, 1974 and August 2, 1974, each time ticket submitted by Claimant in which he claimed the call was approved and paid by the Carrier without a word of protest from them. For the Carrier to **now** reclaim the compensation

previously allowed Claimant would indeed be **an** arbitrary act **on** their part as alleged by the Organization. It is readily apparent from the record at hand that Carrier's officials knew of the service performed by Claimant at Wellington and willingly acquiesced in paying him a call for this service. If they believed that such payment lacked support in the pertinent Agreement then they should have disallowed it when Claimant submitted his time tickets. For them to now reclaim the payments previously allowed strikes this Board as an unconscionable and arbitrary act. Accordingly, we **shall** sustain the claim.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, **this 15th** day of April 1977.

