

RATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21946
Docket Number CL-2193

Don Hamilton, Referee

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

PARTIES TO DISPUTE: (

(The **Baltimore** and Ohio Railroad **Company**

STATEMENT OF CLAIM: **Claim** of the **System Committee** of the Brotherhood,
(GL-82%) that:

1. Carrier violated the **Agreement** between the parties when on the dates of June 14, 15, **18, 19**, 20, 21, 22, 25, 26, 27, 28, 29; **July** 2, 3, 5, 6, 9, 10, **11, 12**, 13, 16, 17, **18, 19**, 20, 23, **24**, 25, 26, 27, 28, 30, **31**; August **1, 2**; **September** 18, **19**, 25, 26; October 2, 3; **December** 18 and **19, 1973**, it caused and **permitted employees** not covered thereby to use a telephone **from Baum** Boulevard, West **Schenley**, Pennsylvania, for the purpose of securing location of train **informa-**tion and holding trains for the protection of **workmen** and **equipment** of the **Mosites** Construction **Company**, and

2. Carrier shall, as a result, compensate the **named employees** eight (8) hours pay for each date listed as follows:

(a) K. M. Doerschner - June 14, 15, 18, **19**, 20, **21**, 22, 25, 26, 27, **28**, 29; **July** 2, 3, 5, 6, 9, 10, **11, 12**, 13, 16, 17, **18**, 19, 20, 23, 24, 25, 26, 27, 28, 30, **31**; August 1 and 2, 1973.

(b) G. R. Keeney - September 18, **19**, 25, 26; October 2, 3; **December** 18 and **19**, 1973.

OPINION OF BOARD:

The issue presented herein involves the application of Rule 66 of the June **4**, 1973 Clerk-Telegrapher Agreement.

The **Mosites** Construction **Company** entered into a **contract** with the State of Pennsylvania to repair a State highway bridge, located 250 feet above the tracks of the Carrier. The work of the contractor was in no way **related** to the operations of the Carrier, and there was no necessity for the construction **company** to have contact with the Carrier in order to perform under the contract with the State.

The Carrier urges that it utilized a **trainman (flagman)** to advise the Carrier if debris fell onto the tracks from the construction area. It is **further** asserted that the **trainman** used the telephone on **occasion** to **determine** if a train were approaching, so that he **might** be **more** vigilant. The Carrier denies that the use of the telephone was in any way related to the location of trains for the protection of the **workmen** or **equipment** of the construction **company**.

Third Division Award 21786 and the award in Docket No. 87 of **Special** Board of Adjustment No. 355 are both cited as authority for denial of the **claim** presented herein.

We agree with the position of the Carrier and the awards cited **in** reference thereto.

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;

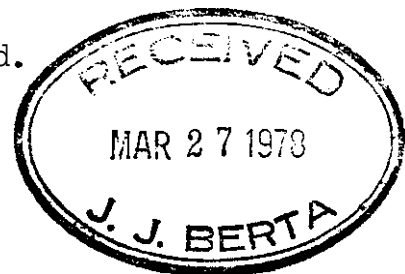
That the Carrier and the **Employees** involved in this dispute are respectively **Carrier** and **Employees** within the meaning of **the** Railway Labor Act, as approved June 21, 1934;

That this Division of the **Adjustment** Board has jurisdiction over the dispute involved herein; and

That the **Agreement** was 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 15th day of **March** 1978.