

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award **Number** 22017
Docket Number CL-21988

James F. **Scearce**, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employes**
PARTIES TO DISPUTE: (
(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood,
(**GL-8312**), that:

1. The Carrier violated the terms of the Agreement between the parties when **commencing** Sunday, October 6, 1974, and continuing the dates of October 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 27, 28, 29 and 30; November 1, 3, 4, 5, 6, 7, 8, 10, 11, and 12, 1974, it required and permitted Train **service** employees not covered by the Agreement to request and receive train authority at West Marietta, Ohio, and

2. The Carrier shall, as a result, compensate Mr. H. E. **Barnett**, incumbent Block Operator-Clerk, West Marietta, Ohio, a minimum call (3 hours pro rata rate) for the dates of October 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30; November 1, 3, 4, 5, 6, 7, 8, 10, 11 and 12, 1974, and for each and all subsequent dates where the record indicates Train service employees performed the disputed work.

OPINION OF BOARD: Claimant was assigned as an Operator-Clerk at West Marietta, Ohio. The basis of the claims in this case stems from the fact that freight conductors used the telephone at West Marietta to contact the Train Dispatcher at Newark, Ohio for permission to depart from West Marietta at times when the Operator-Clerk at West Marietta was off duty.

The basic issues involved here have been examined and ruled upon by several prior Awards of this Division involving the same parties as here. See Award Nos. 21074, 21326, 21575, 21651, 21671, 21681.

We can find no palpable error in the prior Awards. We can find nothing in this record to support the position that the Rules as cited have been violated. Therefore, the principle of stare decisis is applicable. The claims must be and are denied.

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 Employes 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

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 14th day of **April** 1978.

