NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 22235

THIRD DIVISION Docket Number SG-21956

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard Coast Line Railroad Company:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rule 1, Scope, and Rule 17, Subject to Call, when Carrier officer S. H. Wright, Assistant Signal Supervisor, performed recognized signal work by repairing defect detector at Okeechobee, Florida, on July 20, 1975.

(b) Carrier should now be required to compensate Signal Maintainer H. W. Smith, Polk City, Florida, for sir hours and fifteen minutes at one and one-half times his regular rate of pay."

/General Chairman file: 55-H W Smith-75. Carrier file: 15-1(75-8) J3/

OPINION OF BOARD: Claimant is a Signal Maintainer headquartered at Polk City, Florida. On Sunday, July 20, 1975, a defect detector at Okeechobee, Florida was reported dark with no light or voice. The Signal Maintainer regularly assigned to service Okeechobee was marked off, as were other Maintainers at points closest to Okeechobee. At the time in question Claimant was out on call in his own assigned territory, which is some 60 miles away from Okeechobee. It is not refuted that it would have taken Claimant at least two hours to respond to a call in Okeechobee, assuming arguendo he could have been reached.

In the foregoing circumstances, Carrier utilized an Assistant Supervisor to repair the defect detector. After working for some three hours the Assistant Supervisor cleared the trouble at about 3:10 p.m.

In the *instant* dispute Claimant asserts that Carrier violated Rules 1 and 17 of the controlling Agreement. Rule 1 is the Scope Rule and in Rule 17 particular emphasis is placed upon the

phrase: "In event regular assignee, or employee filling the position, is not available, or needs assistance, other available employees covered by this agreement may be used."

There is no doubt that the work performed is within the scope of the Agreement, nor is it disputed that if employes covered by the Agreement are available they should be called under Rule 17, barring a legitimate emergency. The sole issue presented in this particular case is whether Claimant was "available" within the meaning of Rule 17 on the afternoon of Sunday, July 20, 1975.

Upon careful study of the record facts and a line of persuasive precedent we hold that since Claimant was already out on call some two hours or 60 miles away he was not "available" and Carrier's failure to call him did not violate Rule 17. The controlling principles were established in Awards 12519 and 12520 in 1964 and have been followed in like cases since. See also Awards 12938, 15339, 15998, 15999 and 18247.

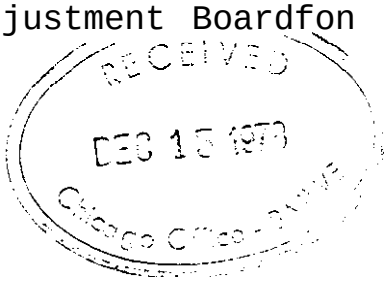
FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

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 Boardfon 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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1978.