

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24409
Docket Number SG-24489

William G. Caples, Referee

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

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Railway Company et al that:

(a) Carrier violated the Signalmen's Agreement, particularly Rule 37, when they failed or refused to call Signal Maintainer W. R. Reustle out to repair a signal failure on his assignment at Austell, Georgia on September 5, 1980.

(b) Carrier should now be required to compensate Signal Maintainer W. R. Reustle an amount equal to two (2) hours and forty (40) minutes overtime because of the loss of work opportunity when carrier refused to call him out to repair the signal failure and because Rule 37 was violated. (General Chairman file: SR-200. Carrier file: SG-480)

OPINION OF BOARD: At about 3:30 A.M., Friday, September 5, 1980, Train 154 encountered a dark signal at Austell, Georgia. This occurred on the Claimant's assigned territory, but outside of his assigned working hours of 8:00 A.M. to 4:00 P.M. Carrier chose not to have the signal failure repaired until Claimant reported on his assigned hours at which time he repaired the failure by replacing a burned - out light bulb. /

It is Organization's position that the Carrier violated Rule 37 when it failed to immediately call the Claimant outside of his regular working hours to repair the signal trouble. 2

It is Carrier's position that no one was called, no work was performed and no rule violation occurred. Carrier stated it as follows: "Certainly the fact that a Signal Maintainer is not called represents no violation of the Signalmen's Agreement." 3

This is not a new matter with these same parties. In a case between them, Award 21728, Referee Smedley said: 4

"The Organization says that Claimant should have received overtime calls rather than being directed to fix signals when he got to work. Neither Rule, 'in that case 36 here 37, . . . ' or any contract provision supports the claim. In the absence of a contract requirement to the contrary, the Carrier retains the prerogative to direct when work shall be performed."

We are in accord. The burden of proof 16 upon the Organization to show an Agreement violation. There has been none shown here. 6

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 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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June 1983.

10-11-83