

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21716
Docket Number SG-21888

George S. Roukis, 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 Mr. R. A. Stults, Signal Maintainer, headquarters Mount
Vernon, Illinois, be paid for time lost while suspended November 3-7,
1975, account of accident involving Company truck No. 71311 on
September 11, 1975, and that his record be cleared of all charges placed
on him account of the accident. [Carrier file: SG-1347]

OPINION OF BOARD: Rule #5 - Vehicles must always be operated at
a reasonable and prudent speed with due regard
to existing speed regulations, weather traffic,
road, vehicle, type of load, and other existing
conditions.

Rule #21 - Drivers must always maintain a safe
stopping distance between Railway vehicle and
the vehicle ahead. Drivers must stay far
enough behind any vehicle being followed to
enable a vehicle overtaking and passing Railway
vehicle to swing back to line ahead of it
without danger.

Rule #28 - Vehicle must not be driven recklessly,
or in a manner that may endanger persons or
property.

Claimant was charged with violating Rules 5, 21 and 28 of
Southern Railway System Rules and Instructions Governing the Use and
Operation of Highway Motor Vehicles in connection with an accident on
September 11, 1975 at Mt. Vernon, Illinois.

Consistent with the requirements of Rule 23 of the Agreement,
Discipline and Differences, claimant was provided an investigation
regarding the particulars and bona fides of the charges brought against
him. The facts are undisputable that claimant was operating company
truck 71311 which ran into the rear of a passenger vehicle that had
stopped for traffic. The ensuing damages amounted to approximately \$900.00.

The record indicates that while it had been raining intermittently during the day, claimant had been on duty more than four hours prior to the accident. It is clearly established by the aforesaid rules that operators must be fully aware of the relationship between weather, traffic and driving conditions. The record indicates that despite claimant's assertion that the brakes did not function properly immediately prior to impact, claimant had not reported any previous difficulty with the brakes. Moreover, no repair or corrective work on the vehicle's brake system was necessary subsequent to the accident. Testimony was presented which showed that claimant continued to drive the same vehicle and that no brake repair work was necessary for the proper functioning of said vehicle in either wet or dry weather conditions.

Considering the entire record, the Board concludes that claimant was not operating vehicle 71311 pursuant to the requirements and specifications delineated in Rules 5, 21, and 28.

The claim will be 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 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

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 29th day of September 1977.