

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19658
Docket Number **MW-19631**

Frederick R. **Blackwell**, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employes
(Houston Belt & Terminal Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it called and used Foreman A. Lopes for overtime service on February 5 and 7, 1971 instead of calling Foreman P. Aguirre (System File 780.3).

(2) Foreman P. Aguirre now be allowed eleven (11) hours' pay at his time and one-half rate because of the aforesaid violation.

OPINION OF BOARD: This claim arises under Agreement Between the parties effective October 15, 1955.

The claimant, regularly assigned to the position of section foreman, was registered for duty, but lost work on February 5 and 7, 1971, because Carrier's efforts to reach him by phone were not successful.

On the **whole** record we find that Carrier's efforts to reach claimant by phone were not adequate on February 5, but were adequate on February 7. The individual who called claimant on February 5 allowed the phone to ring several times and then called another section foreman. The caller should have **redialed** the phone number at least a second **time** to provide greater assurance that the proper number was being dialed. We shall therefore sustain the claim for February 5, 1971. The individual who called on February 7 received a busy signal for about thirty minutes, and then received verification from the phone operator that conversation was occurring on the line. Carrier's efforts were completely adequate in this instance and we **shall** deny the claim for February 7, 1971.

Finally, we note that the record contains references to claimant's having two separate phones; however, there is no showing of record that more than one phone number was registered with the Carrier.

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;

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

That the Agreement was violated.

A W A R D

The claim for February 5, 1971 is sustained; the claim for February 7, 1971 is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E.A. Killen
Executive Secretary

Dated at Chicago, Illinois, this **23rd** day of March 1973.