

**PUBLIC LAW BOARD 7239**

PARTIES      BROTHERHOOD OF LOCOMOTIVE  
                 ENGINEERS AND TRAINMEN  
                 TO  
DISPUTE      KANSAS CITY SOUTHERN RAILWAY COMPANY

AWARD NO. 76  
CASE NO. 76  
FILE: 2017-0175

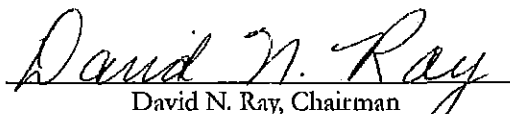
STATEMENT OF CLAIM: Claim of KCS Engineer Joseph Early for the unwarranted discipline of 1 point. This claim is for removal of all notations from his personal work record of discipline assessed, and an additional day's pay for attending the hearing for alleged violation of The Kansas City Southern Railway Company's General Code of Operating Rules 1.16 - Subject to Call and The Kansas City Southern Railway Company's System Circular No. 001 - TE&Y Availability Policy.

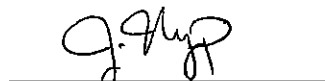
FINDINGS AND OPINION: This Board finds the parties herein are the Carrier and Employee, respectively, within the meaning of the Railway Labor Act, as amended: this Board has jurisdiction over this dispute; and the parties were given due notice of the hearing.

Claimant was employed on June 1, 1998, and subsequently promoted to engineer. On April 7, 2017, while working as the regularly assigned engineer on Pool Block KEO1 out of Kansas City, Missouri, Claimant was called for a 6:30 p.m. assignment and did not respond. As a result, a hearing was scheduled and based on the evidence, Claimant was assessed one point.

The Organization argues that Claimant's assignment was at the away from terminal when he marked up from vacation and he was not subject to call. Carrier states Claimant was properly marked up at the bottom of the Board when he returned from vacation and was therefor subject to call. Substantial evidence was not presented to indicate whether Claimant stood to be called and, if called, whether he had an option not to take the call. After a thorough review of the entire record, the Board finds substantial evidence was not present to indicate Claimant violated Carrier rules.

AWARD: Claim sustained.

  
David N. Ray, Chairman

  
Jennie Nyp, Carrier Member

  
Cole W. Davis, Employee Member

Signed at Estero, Florida on September 18, 2018.