



Award No. 4956
Docket No. 4842
2-MKCSJA-CM-'66

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 3, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

MILWAUKEE-KANSAS CITY SOUTHERN JOINT AGENCY

DISPUTE: CLAIM OF EMPLOYEES:

1. The Carrier failed to comply with the provisions of the time limit rule governing the handling of claims and grievances.
2. That under the provisions of the current agreement, the Carrier improperly allowed other than a Carman Mechanic to repair Car MP 52631, July 16, 1963.
3. That accordingly, the Carrier be ordered to additionally compensate Carman C. F. Johnson three and one-third ($3\frac{1}{3}$) hours at time and one-half rate.

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This claim was handled by the Carrier in the same manner as Award No. 4955, the carrier representative not acting upon it within the time prescribed by Article V, paragraph 1(a), of the Agreement of August 21, 1954, but merely stating in a letter to the Local Chairman:

"I did not receive time claim with this letter."

Since Article V of the 1954 Agreement does not require the filing of a time claim with a claim for violation of the current Agreement, this Board

cannot hold the claim insufficient. While in the first line of the claim it was termed a "time claim", it referred to a violation of Rule 27 of the current Agreement, was obviously a claim or grievance under Article V and not a time claim, and required action within the time limit specified by that Article.

As in the award mentioned above, the actual claim, here stated as parts 2 and 3 of the claim, must be allowed without reference to the merits, and without constituting a precedent or a waiver of the Carrier's contentions as to other similar claims or grievances. However, pay for time not worked is at the pro rata rate.

AWARD

Claim sustained to the extent indicated in the Findings, pay to be at the pro rata rate.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September, 1966.