

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: (Bernard J. Moroski, Petitioner
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(Norfolk and Western Railway Company

Dispute: Claim of Petitioner:

"I have been denied, although performing the work of electrician and mechanic, the applicable rate of pay from November 12th, 1970 to April 16th, 1972."

Findings:

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

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

Parties to said dispute were given due notice of hearing thereon.

The original claim in this dispute was filed on December 9, 1970 and declined on February 5, 1971. Nothing further was done with the original claim: it was not appealed. An identical claim was filed on April 7, 1971 (received by Carrier on April 13th) which differed only in that retroactive pay was claimed to February 13, 1970. The second claim was declined by Carrier on June 9, 1971 and was not appealed to the next higher officer until October 12, 1971 or about four months later. Article V Section 1 (b) of the Agreement (effective January 1, 1955) provides as follows:

"(b) If a disallowed claim or grievance is to be appealed, such appeal must be in writing and must be taken within 60 days from receipt of notice of disallowance, and the representative of the Carrier shall be notified in writing within that time of the rejection of his decision. Failing to comply with this provision, the matter shall be considered closed, but this shall not be considered as a precedent or waiver of the contentions of the employees as to other similar claims or grievances. It is understood, however, that the parties may, by agreement, at any stage of the handling of a claim or grievance on the property, extend the 60-day period for either a decision or appeal, up to and including the highest officer of the Carrier designated for that purpose."

It is apparent that Claimant failed to comply with the Agreement in two significant respects: the initial claim, filed on December 9, 1970, was permitted to lapse and then a similar claim was filed on April 7, 1971; most importantly, the claim was not appealed after the original declination June 9, 1971 until four months later. The language of Section 1 (b) quoted above is clear and unambiguous and Claimant failed to comply with this time limit rule. The basic deficiency in the handling of the dispute was raised by Carrier on the property.

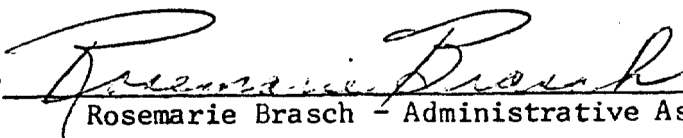
The Board has held consistently and on numerous occasions that where precise time limits exist they must be complied with by the parties (See Awards 12417, 13942, Third Division Award 11182 and many others). As an absolute prerequisite to consideration by the Board, a claim must be handled on the property in the usual manner up to and including the chief operating officer of the Carrier (provided by Section 3, First (i) of the Railway Labor Act). The record of this case shows that it was not handled properly, as indicated above. For this reason we have no authority to consider the merits and the claim must be dismissed. We find that the Board has no jurisdiction over the dispute involved herein.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 21st day of February, 1974.