

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 9717
Docket No. 9122
2-C&NW-CM-'83

The Second Division consisted of the regular members and in addition Referee Gilbert H. Vernon when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. That the Chicago and North Western Transportation Company violated Article V of the August 21, 1954 Agreement when Director of Labor Relations Fremon failed to give written reasons for denial of General Chairman Murphy's appeal dated November 14, 1979.
2. Carman R. H. Kurowski, Green Bay, Wisconsin, was deprived of wages to which he is contractually entitled in the amount of 8 1/2 hours pay at pro rata rate, account the Chicago and North Western Transportation Company called a mechanic-in-charge to perform carmen's work at derailment at Kaukauna, Wisconsin on August 19, 1979.
3. That the Chicago and North Western Transportation Company be ordered to compensate Carman R. H. Kurowski in the amount of 8 1/2 hours pay at pro rata 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 employes 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.

The Carrier raises a procedural issue at the outset which must be considered first.

The Carrier notes that the statement of claim makes reference to August 19, 1979, as the date of the alleged violation. They contend there has been no claim handled on the property for August 19, 1979. Thus, they contend:

"... this Board must hold that this claim has not been handled in the 'usual manner up to and including the chief operating officer of the carrier designated to handle such disputes' as required by Section 3, First (i) of the Railway Labor Act. Accordingly, this Board lacks jurisdiction in this dispute and the claim must be dismissed."

A review of the record confirms the Carrier assertions that there was no claim progressed for August 19, 1979. There was a claim progressed based on a different date.

This Board has been faced with similar issues before; for instance it was stated in Award 6998:

"A reading of the record of this dispute reveals that the Claims as progressed on the property, alleged a violation of the Agreement by certain overtime assignments on November 1, 7, 14 and December 5, 1973 and January 9, 1974. The Claims, as presented to the Board allege violations of the Agreement on November 6, 8, 17, December 7, 1973 and January 15, 1974. It is evident that the Claims submitted to this Board are not the same Claims progressed on the property. We have no alternative but to dismiss the Claims."

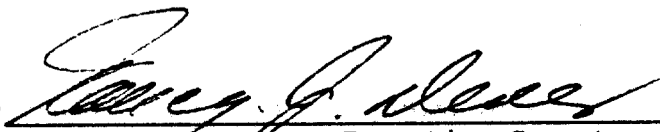
The Board here makes a similar holding. Our jurisdiction as an appellate body is limited to the claim as handled on the property. The claim handled on the property must be the claim appealed to the Board.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of November 1983.