

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers International Association
(
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

1) The Union Pacific Railroad Company did violate the contractual rights of R. D. Fletcher, J. A. Johnson, K. G. Odean, E. A. Weir and W. J. Markley, when they failed to properly compensate them for service rendered on June 12, 16, 17 and July 5, 1984, and

2) That therefore, Fletcher, Johnson, Odean, Weir and Markley be compensated for four (4) hours each at their pro rata rate of pay.

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 employees 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.

On June 21, 1984, Claims were filed with the Carrier by the Organization on behalf of Claimants Markley, Weir, Johnson, and Odean. A similar Claim was filed on July 10, 1984, on behalf of Claimant Fletcher. These Claims stated that the Carrier had violated Rule 13 when it refused to pay Claimants overtime rates at time and one half for hours worked on the first day on a new shift. Carrier denied the Claims on the ground that Claimants had voluntarily changed shifts when their positions had been abolished, and were therefore not due overtime pay under the provisions of the Rule at bar.

As a preliminary point, the Board must rule on a procedural objection, i.e., that the Organization's Ex Parte Submission is defective because it is unsigned. The Organization's Submission ends at page 7 with no signature, nor with the name of any person submitting this document.

It is argued that it has been precedentially established that failure to sign a Submission is fatal to any Claim before the Board.

The Board must conclude, first of all, that the procedural objection raised stems from Circular No. 1 of the Board issued on October 10, 1934, which states in pertinent part the following:

"SIGNATURES: All submissions must be signed by the parties submitting the same."

There is considerable arbitral precedent to support this requirement found in Circular No. 1. This includes Awards issued on the Second, Third and Fourth Divisions of the Board. (See Second Division Award 9701; Third Division Awards 23170, 23283, 25553; and Fourth Division Award 4600.) These Awards all state that a Submission to the Board must contain a signature in order to be valid.

Second Division Award 9701 and Third Division Award 25553 found that a typed signature was acceptable. In the instant case, however, even that is missing.

The Board must find that the instant Claim before it is procedurally defective. It would like to cite, however, the observation made in Third Division Award 23170, for the record. That Award states:

"This Board is always reluctant to decide disputes on technicalities. However, the provisions of Circular No. 1 are mandatory and the Board cannot establish a double standard concerning its application."

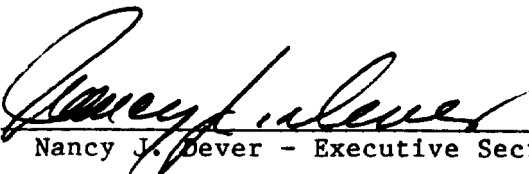
The Board will not, therefore, offer conclusions on the merits of the instant Claim before it.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of December 1988.