

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12938
Docket No. 12644
95-2-93-2-41

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical
(Workers, System Council No. 6
(CSX Transportation, Inc. (former
(Louisville and Nashville Railroad Company)

STATEMENT OF CLAIM:

"1. That the CSX Transportation, Inc., (formerly Louisville and Nashville Railroad Company) failed to deny claims covering the dates of March 8 thru 28 and March 30 thru April 15, 1991 and thereafter refused to allow same, thus violating Article V of the August 21, 1954 amendment to the working Agreement which requires Carrier to deny claim within sixty (60) days or allow claim as presented.

2. That the CSX Transportation, Inc. (formerly Louisville and Nashville Railroad Company) be ordered to compensate Electrician D. R. Simpson eight (8) hours compensation at his standard rate of pay for each claim date from March 8 thru 28 and March 30 thru April 15, 1991."

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.

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 May 3, 1991, the Local Chairman initiated a claim in reference to the furlough effective March 1, 1991, of the Claimant, an Electrician. The claim contended that the furlough action was in violation of the Agreement because the Carrier "allowed junior employees to remain on duty and under pay either in permanent or temporary positions performing regular assigned, relief and/or extra work." The claim was addressed to two Carrier officers, presumably based on the "overlapping jurisdiction covering the Electrical Workers at Louisville, Kentucky." Since the Claimant was paid for five days following March 1, 1991, the claim sought pay for March 8, 1991.

Thereafter, the Local Chairman filed additional claims each day, although continuing to date all claims March 3. The claims were identical except that each sought pay for single days in succession through April 30, 1991.

The same procedure was followed for four other furloughed Electricians, whose claims are reviewed in companion Awards issued simultaneously with this Award. According to the Carrier, 440 claims were submitted, concerning the single events of the furlough of five employees on March 1, 1991.

A number of these claims were answered by Carrier officials. It is clear, however, that many of the claims were not answered within the required 60 days. As will be noted from the Statement of Claim, the Organization seeks to have those claims not answered within 60 days to be "allowed as presented."

The Board recognizes the contractual basis of the Organization's insistence on strict compliance with Article V, Section 1(a). In many circumstances, as confirmed by numerous Awards, the failure to meet the time requirements established by the parties must result in granting the claim on this basis alone (or, in reverse situations, denying the claim where submission or advancement of a claim is not made within the requisite time period).

In this instance, however, the Board finds no obligation to meet the Organization's demand as to granting the claims "as presented." For whatever reason, the Local Chairman undertook a totally unacceptable means of forwarding what otherwise would have been a relatively straightforward question, i.e., was the Claimant improperly furloughed based on his alleged seniority standing.

The Local Chairman must have known, or should have known, that the filing of literally hundreds of claims, all to the same effect (except as to date) would have made it virtually impossible for the claim handling procedure to go forward in an orderly fashion. Further, since some of these identical claims were answered, the Organization did receive timely response as to the Carrier's position, and it would take little flexibility on the Organization's part to accept these as answers to the flood of other claims seeking identical remedies. Article V involves action and reaction from both parties. It is designed to resolve disputes and not to impede such resolution by virtually blocking the procedure through paperwork overkill.

In sum, the Board fully respects the Article V time limits. This does not mean, however, that a party is entitled to make the process almost unworkable by the tactic undertaken in this instance.

The Board takes particular note that the Statement of claim in this dispute is limited solely to the alleged violation of Article V, which has been fully addressed above. In view of this limited Claim, no discussion is required as to the Carrier's countervailing procedural argument and/or the merits of the dispute.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 23rd day of August 1995.