

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13479

Docket No. 13412

99-2-99-2-7

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

**(Brotherhood Railway Carmen Division
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Baltimore & Ohio
(Railroad Company)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. That the Carrier has arbitrarily written their own Rule for employes absent from work which is conflicting with Rule 19 of our Agreement.
2. That the Carrier’s conflicting directive be rescinded and a proper bulletin be issued to all Employes affected.”

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 were given notice of hearing thereon.

This claim concerns an undated notice from the General Car Foreman to Mechanical Department Personnel at the Baltimore Terminal concerning "Procedure for Being Absent from Working Assignment." According to the Organization, this notice was posted on September 5, 1997.

A portion of the claim seeks to have the Board direct "a proper bulletin be issued to all Employees affected." Such request for future action by either party is, of course, outside the Board's jurisdiction.

The remainder of the claim contends that the Notice is in conflict with Rule 19. Rule 19 consists of two sections – "Absence from Work" and "Employees Absent Without Previous Arrangements." The Board reviewed the Notice and Rule 19 and, contrary to the Organization's position, finds no conflict between the two documents.

The first four paragraphs of the Notice concern calling in to report absence ("marking off"). These paragraphs state that the employee seeking to be absent should (1) call in prior to the beginning of the shift; (2) make such call to the supervisor on duty or to the General Car Foreman at home; and (3) give a reason for not reporting.

The first section of Rule 19 requires notification to the Foreman "as early as possible." Surely, "as early as possible" means prior to the commencement of work in virtually all instances. Rule 19 also states the absence from work is "on account of sickness or for any other good cause." This clearly requires the employees to "give a reason."

The fifth paragraph of the Notice concerns returning to work ("marking up"). It requires notice of one hour prior to the end of the employee's scheduled shift on the day prior to returning. Rule 19 has the identical requirement.

In addition, the Organization failed to name any employee adversely affected by the Notice as a result of its alleged "conflict" with Rule 19.

In sum, there is simply no factual basis for the claim. Accordingly, it is dismissed.

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AWARD

Claim dismissed.

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 Second Division

Dated at Chicago, Illinois, this 20th day of December 1999.