

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13971
Docket No. 13824
08-2-NRAB-00002-070008
07-2-8

The Second Division consisted of the regular members and in addition Referee James E. Conway when award was rendered.

(J. L. Williams

PARTIES TO DISPUTE: (

(Norfolk Southern Railway Company

STATEMENT OF CLAIM:

“That the Norfolk Southern Railway has declined to reimburse Telephone Maintainer J. L. Williams for expenses incurred for meals consumed while performing work away from his headquarters.”

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 due notice of hearing thereon.

In this dispute, Claimant Williams seeks reimbursement of meal expenses incurred while he was away from headquarters performing services for Carrier as a Telephone Maintainer during the month of August, 2006.

Neither the facts underlying the Claim nor its relevant procedural history are disputed. Claimant submitted an NS Form 11017 - Travel Expense on September 1, 2006, seeking reimbursement for various lunches consumed during the previous month while on Company business. When it was disallowed by his supervisor, he then initiated a grievance on September 28, 2006 on the same issues. Although that claim was submitted to the improper person, the recipient so advised him and forwarded it on a timely basis to the correct person, System Manager Administration K. E. Barbour, who declined it on October 9, 2006.

On October 27, 2006 Claimant appealed his Claim to Labor Relations Officer A. R. Lane although the proper person designated to receive that appeal was Director A. J. Licate. By letter dated November 8, 2006, Mr. Licate denied the appeal, advising Claimant in passing that his appeal had been directed to the wrong person.

On November 29, 2006, Claimant again appealed his Claim incorrectly, this time to Vice President Labor Relations M. R. MacMahon, who forwarded the appeal to the person designated to handle such appeals. By letter dated December 27, 2006, Assistant Director Labor Relations K. K. Ashley reaffirmed the previous denials on several grounds, including that the Claim duplicated another grievance being handled on the property simultaneously.

On January 12, 2007, Claimant submitted a Notice of Intent to File a Submission to the National Railroad Adjustment Board (NRAB). The dispute was not, however, discussed in conference with Carrier representatives prior to submission of Claimant's notice to the Second Division of the NRAB.

Based upon the foregoing procedural history Carrier takes the position that the case is improperly before the Board. Specifically, it asserts that Claimant's failure to comply with the mandatory terms of Section 2, Second and Section 3, First (i) of the Railway Labor Act (RLA) requires that the Claim be dismissed. Since those statutory provisions dictate that parties attempt to resolve their disputes in conference on the property prior to referring them to the NRAB, Claimant's failure

to do so represents a fatal procedural flaw depriving the Board of its jurisdiction to hear the merits of the Claim.

RLA Section 2, Second provides:

“All disputes between a carrier or carriers and its or their employees shall be considered, and if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carrier or carriers and by the employees thereof interested in the dispute.”

RLA Section 3, First (i) provides:

The disputes between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the dispute.”

Since it is undisputed that Mr. Williams' Claim was never discussed in conference as required by Section 2, Second of the Act prior to his January 12, 2007 notice of intention to submit the dispute to the Second Division of the NRAB, as Carrier correctly states the matter is not properly before the Board. Such conference, as affirmed by the numerous cases Carrier cites in support of its position, is a procedural prerequisite to NRAB jurisdiction. Accordingly, the Claim must be and hereby 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 25th day of November 2008.