

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (System Federation No. 4. Railway Employees'
(Department A.F.L. - C.I.O. - Carmen
(
(The Chesapeake and Ohio Railway Company

Dispute: Claim of Employees:

1. That Carman tentative Dennis Hughes was unjustly withheld from service beginning June 26, 1973 and continuing to July 16, 1973.
2. That Carrier violated provisions of Rules 35 and 37 of the Shop Crafts Agreement account not furnishing the Local Chairman a decision on said case until November 16, 1973, 137 days after date of investigation, nor a copy of transcript of investigation until October 19, 1973, 109 days after date of investigation.
3. That accordingly, Carrier be ordered to additionally compensate Claimant Hughes eight (8) hours at the applicable straight time rate for each of the following dates: June 26, 29, 30, July 1, 2, 3, 4, 6, 7, 8, 9, 10, 13, 14 and 15, 1973.

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 employe 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.

Claimant was suspended from service on June 26, 1973, pending investigation on charges that the Claimant improperly laid off from his regular assignment as a car inspector, second shift in Rossford Yards on June 23, 1973. Claimant was notified on July 16, 1973, to report to work on that same date. The record shows that the decision was made by the Carrier to assess no discipline as a result of the investigation (Employees' Exhibit "E"). A claim based on Rule 37 of the Agreement for the wage loss of the Claimant for the period he was withheld from service was filed on September 28, 1973.

The only issue for resolution presented in this case is whether the Organization complied with Rule 35 of the Agreement and properly filed the claim "within 60 days from the date of occurrence on which the claim or grievance is based". We find that the Organization has complied with the time limit provisions of Rule 35. It is clear that the very earliest claimant could have been aware that a grievance existed was when he did not receive payment for lost time under Rule 37 on August 10, 1973, the date on which the payment for the payroll period including July 16, 1973, was made. The 60-day time limit started then on August 10, 1973. The claim was filed on September 28, 1973, and received by the Carrier on October 4, 1973, within the sixty-day time limit. See Awards 2480, 5385 and 6735. We shall sustain this claim.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

by Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of September, 1975.