

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10818
Docket No. 10108
2-CR-EW-'86

The Second Division consisted of the regular members and in addition Referee Steven Briggs when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Consolidated Rail Corporation (Conrail) failed to notify the Claimants or their representatives, who filed the claim, within the time limits set forth in Rule 4-P-1(a) of the Agreement that the claim was to be denied.
2. That under the current Agreement the Consolidated Rail Corporation (Conrail) improperly failed to pay an additional three (3) hours under Rule 2-A-4(b) to Electricians V. F. Manganelli and J. V. DiNapoli when it assigned them work not comprehended within their regular assignment.
3. That accordingly, the Consolidated Rail Corporation (Conrail) be ordered to pay each of the aforementioned Claimants an additional three (3) hours' pay at straight time for each date that is assigned them to work not comprehended in their regular assignment, as follows:

B&B Electrician V. F. Manganelli

October 7, 9, and 14, 1980
December 1, 2, 3, 4 and 29, 1980

B&B Electrician J. V. DiNapoli

October 7, 9, and 14, 1980
November 10, 21 and 25, 1980
December 1, 2, 3, 4, 9 and 29, 1980

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 employes 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.

The Claimants are regularly assigned Electricians at the Carrier's Beacon Park, Massachusetts facility. Their regular work hours are Monday through Friday, commencing at 7:00 a.m.

Due to emergency snow conditions, the Carrier assigned the Claimants to work outside of their Seniority District as follows:

V. Manganelli - Oct. 7, 1980 (7:00 a.m.-5:30 p.m.)
- Oct. 9, 1980 (7:00 a.m.-7:00 p.m.)
- Oct. 14, 1980 (7:00 a.m.-7:00 p.m.)
- Dec. 1, 1980 (7:00 a.m.-7:30 p.m.)
- Dec. 2, 1980 (7:00 a.m.-6:30 p.m.)
- Dec. 3, 1980 (7:00 a.m.-8:00 p.m.)
- Dec. 4, 1980 (7:00 a.m.-5:30 p.m.)
- Dec. 29, 1980 (7:00 a.m.-1:30 p.m.)

J. DiNapoli - Oct. 7, 1980 (7:00 a.m.-5:30 p.m.)
- Oct. 9, 1980 (7:00 a.m.-6:30 p.m.)
- Oct. 14, 1980 (7:00 a.m.-7:00 p.m.)
- Nov. 10, 1980 (7:00 a.m.-3:30 p.m.)
- Nov. 21, 1980 (7:00 a.m.-6:30 p.m.)
- Nov. 25, 1980 (7:00 a.m.-6:30 p.m.)
- Dec. 1, 1980 (7:00 a.m.-7:30 p.m.)
- Dec. 2, 1980 (7:00 a.m.-6:30 p.m.)
- Dec. 3, 1980 (7:00 a.m.-8:00 p.m.)
- Dec. 4, 1980 (7:00 a.m.-5:30 p.m.)
- Dec. 9, 1980 (7:00 a.m.-3:30 p.m.)
- Dec. 29, 1980 (7:00 a.m.-10:30 p.m.)

The Claimants requested an additional three hours' pay under Rule 2-A-4(b) of the Agreement for each of the days listed above on the basis that they had been assigned outside their normal seniority district and had performed work not comprehended in their regular assignments.

The Carrier maintains that the above Claim was not received by its Division Engineer until April 6, 1981, and is therefore in violation of Rule 4-P-1 and procedurally defective.

The Organization asserts that the Claim was presented to the Division Engineer via Certified Mail on January 16, 1981, and that receipt of same was acknowledged by signature of a Carrier representative. Furthermore, the Organization charges that the Carrier failed to notify the Local Chairman of its decision in the Claim within the time limits prescribed in Rule 4-P-1(a).

Rule 4-P-1 is quoted below:

"A claim or grievance must be presented in writing by an employee or on his behalf by his union representative to the employee's General Foreman or other designated

official within sixty (60) days from the date of the occurrence on which the claim is based. Should any claim or grievance be denied, the General Foreman shall, within sixty (60) days from the date same is filed, so notify, in writing, whoever filed the claim or grievance (the employee or his representative). If not so notified the claim or grievance shall be allowed as presented."

The Board is convinced from the record that the Claim was filed with the Carrier on January 16, 1981. Moreover, since the Carrier did not provide notification of its denial of the Claim within the contractually specified 60 days, we find that the Carrier is in violation of Rule 4-P-1(a). We therefore have determined that a consideration of the merits in this case is not necessary.

The Board also notes, however, that some of the occurrences upon which the Claim is based are outside the scope of the employees' 60-day time limit for filing (also under Rule 4-P-1). Accordingly, the Claim is sustained for the following days:

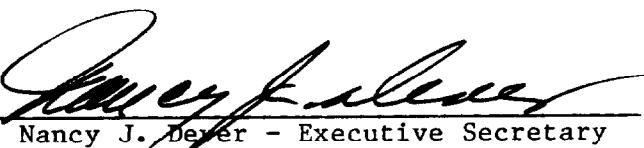
Manganelli - Dec. 1, 2, 3, 4 & 29, 1980.

DiNapoli - Nov. 21, 25, 1980; Dec. 1, 2, 3, 4, 9 & 29, 1980.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois this 16th day of April 1986.