

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13245

Docket No. 13181

98-2-96-2-75

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

(J. L. Ayers

PARTIES TO DISPUTE: (

(Norfolk Southern Railway

STATEMENT OF CLAIM:

- “1. That the Chattanooga Diesel Locomotive Shop of Norfolk-Southern Railway on January 15, 1996, violated the Controlling Agreement, Rule 35, by failure to notify Employee of claim denial within Agreement time limits (more than 10 days late).
2. Denial of valid claim appeal for Controlling Agreement, Rule 35. Carrier violation (Item 1 above) by Carrier’s highest ranking official on March 28, 1996.
3. That the Chattanooga Diesel Locomotive Shop of Norfolk-Southern Railway on January 25, 1996, denied Employee’s valid wage, vacation pay, and seniority claim in association with Carrier’s violation of the Controlling Agreement and the terms and conditions of Employee’s transfer agreement with the Carrier.
4. March 28, 1996, denial of valid claim appeal (Item 3 above) to the Carrier’s highest ranking official for Carrier’s violation of the Controlling Agreement and the terms and conditions of Employee’s transfer agreement with the Carrier.”

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.

Carrier has raised a procedural issue in this case. It argues the dispute was not handled in conference on the property. Therefore, this Board lacks jurisdiction.

Section 2, Second and Section 3, First (i) of the Railway Labor Act, as amended, require a conference on the dispute must be held. The record in this case is void of any evidence that such a conference was held. Accordingly, it is not possible to discuss the merits of the case. In accordance with the numerous Awards of all Divisions of this Board, the claim is procedurally defective and must be dismissed.

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 30th day of March 1998.