

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13251

Docket No. 13216

98-2-96-2-126

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

(James E. Collins

PARTIES TO DISPUTE: (

(Norfolk Southern Railway

STATEMENT OF CLAIM:

- "1. That the Chattanooga Diesel Locomotive Shop of Norfolk-Southern Railway on December 4, 1995, violated the Controlling Agreement, Rule 35, by failure to notify Employee of claim denial within Agreement time limits (more than 2 days late). At this time I had to drive to Chattanooga, while on vacation, to receive this response.
2. Denial of valid claim appeal for Controlling Agreement, Rule 35, Carrier violation (Item 1 above) by Carrier's highest ranking official on March 18, 1996.
3. That the Chattanooga Diesel Locomotive Shop of Norfolk-Southern Railway on December 4, 1995, 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 18, 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.

There are two procedural arguments made by the Carrier which must be resolved before any discussions of the merits are made.

Claimant has appealed this case as a violation of Rule 35 by the Carrier. The Carrier has argued that the Claimant did not raise the time limit violation on the property, ergo it can not be considered by this Board. A review of the entire file finds the Claimant did raise the time limit violation on the property on January 29, 1996. Accordingly, the Carrier's argument lacks merit.

The second procedural argument by the Carrier is that a conference on the claim was not held. The usual handling required by Section 2, Second and Section 3, First (i) of the Railway Labor Act, as amended, was not followed in this case.

The record is void of any evidence that a conference was held on this claim prior to its submission to this Board. Accordingly, in line with numerous Awards, it is not possible for this Board to reach the merits of this case. The claim is procedurally defective and must be dismissed.

AWARD

Claim dismissed.

Form 1
Page 3

Award No. 13251
Docket No. 13216
98-2-96-2-126

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.