

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.

The claim involves an allegation by Claimant that he was underpaid by two hours at the overtime rate for each day he worked since assuming the position of Lead Write-Up Carman on the second shift at Carrier's Tampa, Florida, Repair Track in April 1994. The underlying factual basis for the claim was the abolition of a Write-Up Carman position and a Supervisor's job on the second shift in 1991, and the creation of the Lead Write-Up Carman's position on that shift, which incorporated duties from each of the abolished positions. It appears that local management authorized the payment of a two hour overtime premium per day to compensate the incumbent for these additional duties, and that the practice lasted for over two years with four employees receiving the additional pay.

The record reflects that when Claimant assumed the position and requested the premium payment, he was told by his General Foreman that he would begin receiving one hour overtime, which would be increased by one-half hour with experience, and eventually he would receive the two hours overtime pay. When his General Foreman was transferred, Claimant was receiving one and one-half hours overtime premium, and the failure to secure the additional one-half hour of overtime led to Claimant's initiating a claim on January 26, 1995.

The claim was followed by a letter to his Local Chairman on February 3, 1995 explaining the basis of his claim. The record indicates a notation that the claim was settled by Claimant's Supervisor and acting General Foreman on February 21, 1995

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13338

Docket No. 13082

98-2-95-2-105

The Second Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

(Nelson E. Carlock
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Seaboard Coast
(Line Railroad Company)

STATEMENT OF CLAIM:

“In 1991 my job as second shift write-up carman was abolished at the repair track in Tampa, Florida. The second shift supervisor job was also eliminated and a new job was advertised called the lead write-up job. The lead write-up job is a bid on carman’s job and was assigned the duties and responsibilities previously done by both the write-up carman’s job and the supervisor’s job on the second shift.

It was agreed to by both management and the carmen that the lead write-up job would pay an additional two hours overtime per day in addition to the normal eight hours straight time pay at lead rate for performing the work previously done by a supervisor.

I began working this job April 6, 1994 and except for three weeks beginning February 21, 1995 and ending March 10, 1995 the management of CSX Transportation Railroad has refused to pay me the wage agreed to when the job was created and was paid up to the time I began working the job.

This is an ongoing claim and dispute that I have been unable to resolve, therefore, I request the National Railroad Adjustment Board to look into the matter. The remedy I am seeking is that CSX Transportation pays me the additional two hours overtime that they agreed to pay the second shift lead write-up carman from the time I assumed the position to present and ongoing.”

agreeing to pay him the two hours overtime from that time forward. This occurred until March 10, 1995 when all payments for time not worked were discontinued.

Claimant wrote a letter to local management on March 10, 1995 threatening legal action for any change in his agreed-upon pay pursuant to the settlement. On March 20, 1995 Carrier responded, declining the claim based upon Claimant's failure to cite any Agreement violation and its position that there is nothing in the Agreement requiring overtime pay for hours not worked. Claimant wrote a letter to Carrier's President on March 23, 1995 requesting his help in resolving the matter.

By letter dated April 13, 1995 the Organization appealed Carrier's denial, contending that Claimant was entitled to the full Supervisor's pay rate under the Agreement for time worked in the position.

Claimant received a reply to his letter to Carrier's President, dated May 10, 1995, wherein Carrier's Assistant Vice President responded to Claimant's concerns and explained that practices must change with Carrier's business, which was in the mode of reducing costs and increasing service. He directed Claimant to further discuss the matter with the Mechanical Superintendent.

There was no additional correspondence on the property concerning the claim. It is undisputed that the claim was not processed to Carrier's highest designated officer to handle claims and that no conference was ever held to discuss the claim. This procedural defect is determinative in this case and requires the Board to dismiss the claim. It has long been held that failure to properly appeal a claim or to discuss it in conference on the property is violative of the provisions of the Railway Labor Act, and deprives the Board of jurisdiction to reach the merits of the dispute. First Division Award 24159; Second Division Awards 7155, 6540, 6239, 4852; Third Division Awards 29231, 27482, 26867, 16567, 11896, 11484, 11434.

Accordingly, the claim must be dismissed.

AWARD

Claim dismissed.

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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 24th day of November 1998.