

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13399
Docket No. 13322-I
99-2-98-2-6**

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

(Gregory J. Fischbach
PARTIES TO DISPUTE: (
(Soo Line Railroad Company

STATEMENT OF CLAIM:

“CP(SooLine) Railroad is in violation of Rule 2, Paragraph D and Appendix N of the Work Rule Agreement of August 1, 1988.

I want jobs rebulletined as before this dispute with wrecker positions with Saturday & Sunday rest days and time and one-half for all Saturdays worked and 8 hours straight time for all Mondays not worked from the first of the work rule violation since February 12, 1996.”

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.

In reviewing the on-property handling of this dispute, the Board finds that the Claimant did not handle the claim in the usual manner, and further, advanced it to this Board without a conference between Claimant and the highest officer of the Carrier designated to handle such matters.

In Third Division Award 31391, the Board held:

“Section 2, Second, of the Railway Labor Act, as amended, expressly requires that all disputes must be considered ‘in conference’ before they may properly be submitted to this Board. This issue has been addressed by a legion of Awards of this Board as well as by decisions of the U.S. Supreme Court. Representative of these decisions is Third Division Award 14873, which correctly held that:

‘No matter how futile a conference may be, a conference must be held on the property prior to submission of a claim to this Board. Otherwise, this Board has no right to consider the claim in question.’

Therefore, the Board has no choice but to dismiss the claim for the reason that the dispute was not handled in accordance with the provisions of the Railway Labor Act and of Circular No. 1 of this Board.”

What has been quoted above is adopted by this Board in this matter.

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 12th day of April 1999.