

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

Award No. 13412

Docket No. 13221

99-2-96-2-131

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

**PARTIES TO DISPUTE:** ( **Brotherhood Railway Carmen, Division of**  
( **Transportation Communications International Union**  
( **CSX Transportation, Inc. (former Louisville and**  
( **Nashville Railroad Company)**

**STATEMENT OF CLAIM:**

**“Claim of the Committee of the Union that:**

- 1. That the Louisville and Nashville Railroad Company, (now a part of CSX Transportation and hereinafter referred to as Carrier) violated the controlling agreement rights of Pensacola, Florida carman J.L. Janes, (hereinafter referred to as Claimant) specifically but not limited to Rules 14, 18, 19, and 29 when Carrier denied Claimant his contractual rights to work the known vacancy of Lead Carman I.E. Ellsworth from January 30 through February 10, 1995 as requested.**
- 2. That moreover Carrier violated the controlling Agreement rights under Rule 32 and Appendix ‘D’, of Claimant when Carrier failed to respond in a timely manner to local chairman’s initial claim dated February 28, 1995 in behalf of Claimant.**
- 3. Carrier should now be ordered to compensate Claimant for eight (8) hours pay each day at the pro rata Lead Carman rate on February 2, 3, 9 and 10, 1995; and for \$.50 an hour for 8 hours each day or a total of \$4.00 each day on January 30, 31 and February 1, 6, 7 and 8, 1995.”**

**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.

This claim, dated February 28, 1995, was received by the Carrier on March 13, 1995. It seeks compensation for the Claimant for specified dates when junior employees were permitted to fill a Lead Carman vacancy in Pensacola, Florida. The Organization argues that the Carrier's denial, which it acknowledged receipt of on May 12, 1995, was untimely as it did not comply with the 60 day time limit set forth in Appendix "D", Article V (a). The Board rejects the Organization's timeliness argument on the grounds that actual receipt of the denial did admittedly occur on the 60th day following the Carrier's receipt of the claim, and the Carrier complied with the requirement of placing its declination letter in the mail within the noted time limits. See Second Division Award 8268.

With the exception of the dates of the claim and some of the correspondence, the Board considered the same arguments and contentions with respect to this Claimant, Agreement language, and circumstances in Second Division Award 13411. We conclude that the Board lacks jurisdiction to hear the merits of the claim based upon the failure of the parties to hold the requisite face-to-face conference, and dismiss the claim for the same reasons and rationale cited therein.

**AWARD**

Claim dismissed.

**Form 1**  
**Page 3**

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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 16th day of June 1999.**