

Award No. 11855
Docket No. MW-9557

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
FORT WORTH AND DENVER RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective Agreement when it assigned the work of constructing a warehouse and freight depot building at Fort Worth, Texas to the Quisle Construction Company whose employes hold no seniority rights under the provisions of this Agreement.

(2) That Superintendent Moyer's disallowance of the claim was in violation of Rule 33, account of failure to notify of his reasons for said disallowance.

(3) Because of the violations referred to in Parts (1) and (2) of this claim, the Carrier be required and directed to allow the claim which was presented under date of April 12, 1956 that is, "each employe holding seniority in the B&B department be allowed his proportionate share of the total amount of hours consumed by the employes of the Quisle Construction Company at their respective pro rata rates of pay until this building is completed or our employes are placed on the job to do the work."

EMPLOYEES' STATEMENT OF FACTS: Commencing on or before March 15, 1956 the work of constructing a warehouse and freight depot building at Fort Worth, Texas was assigned to the Quisle Construction Company without negotiation with or concurrence of the employees' authorized representatives.

The building is of prefabricated steel construction, approximately 228 feet in length by 50 feet in width; has a concrete foundation rising approximately 4½ feet in height above the surface of the ground; has a concrete floor; enclosed and roofed with corrugated sheet iron; with an office space of approximately 50 feet in width by 52 feet in length separated from the warehouse area by a wood framed partition. The office area has three small private offices, an auditorium type office and rest rooms. The partitions, walls and ceiling in the office area are finished or covered with sheet rock. The north side of the warehouse area has four (4) overhead garage type doors for the unloading and loading of freight to and from merchandise cars. Similarly, the

OPINION OF BOARD: Rule 33 (a) of the confronting Agreement is literally the same as Article V, Section 1 (a) of the National Agreement of August 21, 1954.

Inter alia, Carrier timely denied the claim for the given reason that it is defective on its face in that it does not identify the "employee involved" in satisfaction of Rule 33 (a).

The present claim is made for "each employee holding seniority in the B&B department." In Award No. 9848, which involved the parties herein and the same Rule and issue, the claim was made for "each Bridge and Building Department employee;" thus, in specificity it is in substance analogous to the instant claim. We held in Award No. 9848 that:

" . . . the claimants are not specifically named; nor are they easily and clearly identifiable in this case. The claim must be dismissed."

Award No. 9848 is controlling precedent. We will dismiss the claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim must be dismissed for reasons stated in Opinion.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1963.