

Award No. 14672
Docket No. MW-13236

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ATLANTIC COAST LINE RAILROAD COMPANY

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

(1) The Carrier violated the Agreement when, on January 24 and 25, 1961, it assigned or otherwise permitted a mechanic and a helper from the Material Yard at Waycross, Georgia (Group 8 employees) to make repairs to the clam shell bucket on Dragline, Serial No. 97945 and, as a consequence thereof

(2) Each Group 14 employee assigned to the Equipment Repair Shop on January 24 and 25, 1961 be allowed pay at their respective straight-time rates for an equal proportionate share of the thirty-two (32) man-hours consumed by Group 8 employees in performing the work referred to in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: On January 24 and 25, 1961, a mechanic and a helper holding seniority in Group 8 and assigned to the "Material Yard" at Waycross, Georgia (under the jurisdiction of Stock Yard Foreman W. D. Smith) were assigned or otherwise permitted to perform work exclusively reserved to Group 14 employees. The work consisted of making repairs to the clam shell bucket on Dragline (Serial No. 97945). The afore-said mechanic and helper each consumed sixteen (16) hours in the performance of the work, for a total of thirty-two (32) hours.

In the initial letter of claim declination, the Division Engineer declined the claim upon the single allegation that:

"Since it has been historically customary for material yard forces to perform this type and similar work, it is my position that the work performed on dragline bucket at Waycross, January 24 and 25, 1961, does not necessarily come within the scope of the duties assigned to group 14 employees."

However, all subsequent appeal officers abandoned the defense of alleged "past practice" and declined the claim solely upon the allegation that the claim was defective because the claimants were not individually identified by

monetary claim shall be allowed retroactively for more than sixty (60) days prior to the filing thereof. With respect to claims or grievances involving an employee held out of service in discipline cases, the original notice of request for reinstatement with pay for time lost shall be sufficient.

Section 3. This rule recognizes the right or representatives of the organization, party hereto, to file and prosecute claims and grievances for and in behalf of the employees it represents.

Section 4. This agreement is not intended to deny the right of the employees to use any other lawful action for the settlement of claims or grievances provided such action is instituted within nine (9) months of the date of the decision of the highest designated officer of the Carrier.

Section 5. This rule shall not apply to requests for leniency."

As will be noted, the rule specifically states that "all claims or grievances must be presented in writing by or on behalf of the employee involved. . .," that is, a named individual. This omission was called to the attention of the organization.

Since no claim for compensation on behalf of any employee has been filed with the carrier in the manner provided in Rule 11(a), it is clear the claim herein involved should not be entertained or allowed.

This is not the first claim this organization has progressed to your Board when the claimants were not named. On December 7, 1961, it progressed the following:

"Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective Agreement when it assigned the work of repairing tracks, rollers, idlers, sprockets and shafts of Crawler Tractors to the Carlton Caterpillar Tractor Dealer in Savannah, Georgia.

(2) That the senior furloughed mechanic and the senior furloughed mechanic helper be allowed pay at their respective straight-time rates for an equal number of hours as was consumed by outside forces in making the repairs referred to in Part (1) of this claim."

Apparently, this organization does not respect Rule 11(a).

(Exhibits not reproduced.)

OPINION OF BOARD: The only defense offered in this case is that since no claim for compensation on behalf of any employee was filed with the Carrier in the manner provided in Rule 11(a), in that Employees failed to give the names of the individual claimants, the claim should not be entertained or allowed.

We have frequently heretofore held that the name of the employee on behalf of whom a claim is presented is not essential to the proper presenta-

tion of a claim: as long as the claim described the claimants so that they can be readily identified, the claim is made on behalf of the particular employees so described. In this case the claim describes the claimant employees as "Each Group 14 employee assigned to the Equipment Repair Shop on January 24 and 25, 1961"; Carrier should have had no difficulty in identifying them by an examination of its records. Therefore we find that, contrary to Carrier's contention, the claim was filed in the manner provided in Rule 11(a). No other dispute being offered by Carrier regarding the merits of the claim, we will sustain it.

FINDINGS: The Third Division of the Adjustment Board, 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 Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 21st day of July 1966.