



Award No. 15334

Docket No. MW-13242

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

INDIANA HARBOR BELT RAILROAD COMPANY

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

(1) The Carrier violated the Agreement when it abolished the positions of Crossing Watchmen at 148th Street and at 149th Street, East Chicago, Indiana and thereafter permitted individuals holding no seniortiy to perform crossing protection work at these two locations.

(2) The work of providing crossing protection at the aforesaid street crossings be restored to employes coming within the scope of the agreement between the parties to this dispute.

(3) Each employe who was affected by the violation referred to in Part (1) of this claim be compensated at the contractual rate of said positions for each day and for the same number of hours that crossing protection is provided at those locations by other than employes holding seniority within the scope of this Agreement.

EMPLOYES' STATEMENT OF FACTS: The Carrier abolished positions of Crossing Watchmen at 148th Street and 149 Street, East Chicago, Indiana on June 10, 1960.

Although the crossings in question have automatic crossing protection, the city insisted that additional protection, in the form of regular crossing watchmen, be provided during school days. Subsequently, an item appeared in the local newspaper, which read:

"The Board signed a contract with the Indiana Harbor Belt Railroad to hire two school crossing guards to be located at 148th and 149th Streets, east of Kennedy Avenue.

The contract provides that the railroad will reimburse the city for any cost entailed in hiring the guards."

1960, following which Carrier wrote to the Organization outlining what had been discussed.

On November 23, 1960, the General Chairman of the Organization filed claims with Carrier's Superintendent, which were denied. Claims were appealed to the Assistant General Manager-Labor Relations on January 13, 1961, who affirmed the Superintendent's denial under date of March 29, 1961.

On December 19, 1961, Carrier received copy of the Organization's letter to the Third Division, NRAB, indicating their intention to file the dispute with your Board for adjudication.

OPINION OF BOARD: On June 10, 1960, Carrier abolished the positions of Crossing Watchmen at 148th Street and 149th Street, East Chicago, Indiana. On or about September 8, 1960, the duties formerly performed by crossing watchmen at the above location were allegedly, assigned to school crossing guards hired by the School Board as result of a contract entered into with Carrier. Negotiations between the Organization's representative and Carrier's representative on the alleged agreement violation proved futile and the instant claim was filed.

Carrier takes the position that the claim is barred because the Petitioner failed to file same with the Agent, the initial officer of the Carrier authorized to receive claims involving crossing watchmen.

There can be no dispute that by application of Article V, 1(a) a claim, as the instant one, is barred if the same had not been presented in writing to the proper officer of the Carrier and such objection is timely raised during the handling on the property.

Upon the record before us we find no evidence that Petitioner presented claim initially to the proper officer of Carrier and in the absence of such proof the claim is barred. We are compelled to 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 was not properly presented in accordance with Article V, 1(a) of the August 21, 1954 National Agreement, and therefore, the Claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 10th day of February 1967.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.