



Award No. 15697
Docket No. MW-16339

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY**

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

(1) The Carrier violated the terms of the Mediation Agreement dated November 20, 1964 when it applied the nine (9) cents per hour wage increase effective January 1, 1965 for monthly rated employes on the LaCrosse Division on the basis of 174 hours a month instead of 174½ hours per month. (Carrier's file M-1108-65.)

(2) Assistant Superintendent J. D. Larson defaulted when he failed to comply with the provisions of Article V of the August 21, 1954 Agreement in his disallowance of this claim which was presented to him on March 1, 1965.

(3) Because of the violations referred to in Parts (1) and (2) of this claim, the Carrier shall compensate each monthly rated employe on the LaCrosse Division an additional six (6) cents per month effective with the month of January, 1965 and for all subsequent months.

EMPLOYEES' STATEMENT OF FACTS: The factual situation involved in this dispute is fully described within the following quoted correspondence:

LETTER NO. 1

"March 1, 1965
20-3

Mr. J. D. Larson, Assistant Supt.
CB&Q Railroad
North LaCrosse, Wisconsin

Dear Sir:

We present herewith claim in behalf of each monthly rated employe under your jurisdiction employed in the Maintenance of Way Department in accordance with our order of appeal.

OPINION OF BOARD: Claim was filed with the Assistant Superintendent by letter dated March 1, 1965. He did not deny it until May 10, 1965 — more than 60 days after he received it. Petitioner, citing Article V, 1 (a) of the August 21, 1954 Agreement, moves that the Claim be allowed as presented. We will sustain the Claim as presented with Carrier's liability terminating May 10, 1965. NDC Decision No. 16.

As to the merits of the Claim we find it presents the same issues which we resolved in Award No. 15547. For reasons stated in that Award we will dismiss the instant Claim except to the extent prescribed in the preceding paragraph of this Opinion.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Carrier failed to comply with Article V, 1 (a) of the August 21, 1954 Agreement.

That the Claim on its merits must be dismissed for failure of proof.

AWARD

Claim sustained in part and dismissed in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1967.