



Award No. 18882
Docket No. MS-19210

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas L. Hayes, Referee

PARTIES TO DISPUTE:

R. T. HORN

NORFOLK AND WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intentions to file an ex parte submission on April 10, 1971, covering an unadjusted dispute between me and the Norfolk & Western Railroad Co. involving the question:

1. Violations of Rule #3-10-13-39 and the provisions of the Memorandum Overtime Agreement, on the date of Jan. 19, 1970.
2. Violation of the Memorandum Overtime Agreement in effect in the Portsmouth Ohio Scale Office, on the date of March 17, 1970.

The Carrier violated the rules of the current Clerks Agreement, as amended, when on January 19, 1970 it did not use Clerk R. T. Horn to perform services at Portsmouth, Ohio Scale Office 3:00 P.M. to 11:00 P.M. On January 19, 1970 the Carrier used Extra Clerk C. F. Shepherd to perform services on 11:00 A.M. to 10:00 P.M. shift pulling tags. Clerk Horn should have been used to perform tag pulling duties on January 19, 1970 from 3:00 P.M. to 11:00 P.M. as this is a day which is not part of any assignment and the rest days of Clerk Horn's position. This same violation occurred on the date of March 17, 1970.

OPINION OF BOARD: A review of the record in this docket clearly shows that the claim Petitioner is attempting to assert before this Board is a different claim than that handled and settled on the property by his Organization. The claim before the Board was not handled on the property of the Carrier in accordance with the provisions of the applicable collective bargaining Agreement and as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board.

Therefore, the claim is barred from consideration by the Division and will be dismissed.

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 the claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 10th day of December 1971.