

NATIONAL RAILROAD ~~ADJUSTMENT~~ BOARD

THIRD DIVISION

Award Number 19777
Docket Number MSX-19757

Gene T. Flitter, Referee

PARTIES TO DISPUTE: (Otis H. Guest
(FLEA Express, Inc.

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board of my intention to file an **ex parte** submission on January 19, 1972, covering an unadjusted dispute between me and the Railway Express Agency involving the question of:

Failure to pay me for earned vacation for 1970. I believe four weeks of vacation have been withheld.

Otis Guest, claimant/Railway Express Agency

#1. Union contract clearly provided for vacation. This benefit has not been extended to me for 1970.

#2. I was not compensated with paid **vacation for** 1970, although I worked sufficient time during 1970 to earn this vacation. An employee with less seniority **than I** was given paid vacation. His name is A. (Alan) Stewart. He received paid vacation during the week of January 3, 1971.

#3. Since this employee was given paid vacation, I believe that I, too, deserve this benefit.

#4. This letter has been presented to the Railroad Express Agency. I have not noted specific sections of Union agreement which have been violated by the railroad, since I have not been provided with a copy of the Union agreement.

I am not requesting an oral hearing.

OPINION OF BOARD: The record discloses that Claimant makes claim for 4 weeks of vacation which he alleges has been wrongfully withheld from him. Claimant alleges that **he** was not compensated with paid vacation for 1970, although he worked sufficient time during 1970 to earn the vacation; and that an employee with less seniority than he was given paid vacation; and that he (Claimant) worked sufficient time during 1970 to earn the vacation. Carrier alleges that the claim should be dismissed because no claim was filed with REA.

The record discloses that this claim was not handled on the property in accordance with Rule **11(i)** of the involved Agreement, a mandatory procedural rule. Therefore, this claim 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 be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ~~ADJUSTMENT~~ BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1973.