NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 19975
THIRD DIVISION Docket Number X-19558

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(George P. Baker, Richard C. Bond, Jervis Langdon, Jr.,
(and Willard Wirtz, Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the former New York Central Railroad Company-Lines West of Buffalo (now Penn Central Transportation Company):

On behalf of Signal Maintainers N. J. Brown and J. Hillman for two and one-quarter (2¼) hours each at the punitive rate as penalty time for work performed off their seniority district on March 6, 1970, at the scene of a derailment at or in the vicinity of E. 34th Street, Indianapolis, Indiana.

OPINION OF BOARD: In its Submission, the Organization asserted that the Carrier violated Rule 24 (separate seniority districts) by requiring two employees to work off of their assigned territory and seniority district.

Among other defenses, the Carrier urges a dismissal because the Organization did not cite (during the handling of the matter on the property) any article of the agreement in support of the claim. We find the position of the Carrier well taken and we dispose of the claim without reaching the merits.

On the property, the Carrier repeatedly cited two portions of the agreement as justification for its actions, but the Organization insisted that said Rules were not applicable. Approximately nine months prior to the Organization's notification of intention to file an ex parte submission the Carrier advised:

> "Yet no article of the Agreement is cited by the Organization in support of the claim."

In direct reply to the letter containing the above-cited quotation, the Organization repeated its request for penalty payment because Claimants were required to perform work off of their home seniority district, but again failed to cite the portion of the agreement relied upon.

As this Referee stated in Award No. 19855:

"It appears rather obvious that when a Carrier specifically advises the Organization that it has failed to identify the rule or rules alleged to have been violated, the Organization is obliged to advise the Carrier of the rule under which it seeks redress."

It is well settled that a failure to assert a specific rule violation while the matter is handled on the property is fatal to the employee's case and the claim must be dismissed out of hand. See Award of this Referee in Docket No. CL-19841, citing Awards 14754 (House), 13283 (House), 13742 (Dorsey), 14118 (Harr), 14772 (Dorsey) and 19773 (Ritter). A specific citation in the Submission does not cure the earlier procedural defect. Awards 18964 (Dugan), 13741 (Dorsey) and 15835 (Ives).

Inasmuch as the claim is disposed of on the procedural grounds noted above, no determination is made concerning other issues raised by the parties.

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 Employes involved in this dispute are respectively Carrier and Employes 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: A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1973,