

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20357  
Docket Number CL-19704

John H. Dorsey, Referee

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and  
( Station Employees  
PARTIES TO DISPUTE: (  
(J. F. Nash and R. C. Haldeman, Trustees of the Property  
( of Lehigh Valley Railroad Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-7063)  
that:

1. Carrier violated the Agreement between the parties effective May 1, 1955, as revised, when on July 26, 1970 it called Mrs. Sylvia Wheeler, junior employee to Mr. Paul Maholsic, to work as Messenger - Clerk at East Buffalo, New York.

2. Carrier further violated said Agreement when initial claim to Trainmaster Dahn was answered by Superintendent De Longis, thus violating Rule 33, Time Limits.

3. Carrier shall now be required to pay Claimant Maholsic a day's pay at punitive rate for stated violations on July 26, 1970 and that of Rule 33.

OPINION OF BOARD: We are compelled to dismiss this Claim, for lack of jurisdiction, in that Clerks failed to handle the dispute in the usual manner on the property when it failed, on the property, to perfect timely appeal to Carrier's "chief operating officer of the carrier designated to handle such disputes" -- an indispensable statutory condition precedent to invoking this Board's jurisdiction. Section 3. First (i) of the Railway Labor Act. Also, see Rule 33(c) of the Agreement between 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 Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

The Claim is dismissed for lack of jurisdiction.

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Claim dismissed,

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By Order of Third Division

ATTEST: *A.W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of August 1974.