

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20654  
Docket Number SG-20536

Joseph A. Sickles, Referee

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Kansas City Terminal Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Terminal Railway Company:

On behalf of Mr. F. L. Carver for two (2) hours pay account Union Pacific track forces removing bond wires and feed wires in A 70 track circuit on June 15, 1972, while changing rail.

(Carrier's File: SG5.72.22)

OPINION OF BOARD: Carrier notes, in its Submission to this Board, that ". . .at no time during the progressing of this claim on the property has petitioner identified the rule or rules that were violated." Our review of the record confirms the above recitation.

In its Rebuttal Statement, Claimant minimizes the Carrier's assertion because Carrier did not raise that issue on the property.

This Board has held repeatedly that a claim is properly dismissed if the Claimant has failed to cite a rule while the matter is under consideration on the property. See, for example, Awards 19902, 19855, 19857, 19973 and 18964. To be sure, certain Awards of this Board have commented upon individual Claimants' failures to respond to Carriers' admonitions (on the property) that no rule had been cited; but, we do not conclude that a Carrier is foreclosed from properly raising that issue in its Submission to this Board, even if it failed to so notify Claimant at a previous time.

To rule otherwise would tend to ignore basic concepts of jurisdiction and Petitioners' burdens.

See, for example, Award 15835:

"The jurisdictional issue here involved recently has been considered by us in several Awards, involving similar circumstances. (Awards 13741, 14081, 14118 and 15700).

We find the following statement from our Award 13741 applicable in the instant dispute.

'When a respondent denies a general allegation that the agreement has been violated for the given reason that it is not aware of any rule which supports the alleged violation, the **movant**, in the perfection of its case on the property, is put to supplying specifics. It is too late to supply the specifics, for the first time, in the Submission to this Board - this because:

(1) it in effect raises new issues not the subject of conference on the property; and  
(2) it is the intent of the Act that issues in a dispute, before this Board, shall have been framed by the parties in conference on the property.

Upon the record, as made on the property, we are unable to adjudicate the merits of the alleged violation. We will dismiss the Claim'."

On the property, Carrier consistently defended its actions on the ground that there had been no violation of the agreement. See Award 14772:

"Where, as here, when in response to the Claim Carrier reasons that there was no violation of the Rules, Petitioner **has** the burden of specifying the **Rules** which it alleges were violated - in effect it **must** submit a bill of particulars. Petitioner herein failed to satisfy this burden. We must, therefore, dismiss the Claim."

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.

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Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of March 1975.