

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21774  
Docket Number MW-21717

George S. Roukis, Referee

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way Employees  
(Louisville & Nashville Railroad Company

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when, on December 21, and 22, 1974, Truck Driver P. E. Brown was not used to drive the truck used by Assistant Roadmaster O. A. Cotton, Jr. to patrol and inspect track  
/System File 1-12(107)/E-304-18 E-304/

(2) As a consequence of the aforesaid violation, Truck Driver P. E. Brown shall now be allowed 24 hours of pay at his time and one-half rate.

**OPINION OF BOARD:** The Board has carefully reviewed the specific charges raised by claimant in his petition to carrier and finds that the rule violations asserted **therein particularly** Rules 30(b) and 30(f) respectively were subsequently expanded in claimant's **exparte** submission to include Rule 1 (Scope), Rule 2 - Exceptions, Rule 8(a) and **Rule 30(g)**. Admittedly; said modification represents a substantially changed petition in that the additional rule violations cited were never handled on the property pursuant to **well** established procedures.

Moreover, mindful that **claimant** averred "**or** any other applicable rules of the October 1, 1973 agreement" in his original complaint, it would be well nigh impossible to ascertain with any degree of competence what rules were relevant to claimant's specific charges. This represents a shotgun **approach, which** is patently inconsistent with the bona fides of an efficient and expeditious grievance resolution process. Third Division Award 21441 which dealt with a similar fact situation appears dispositive of the issue. Referee **McBrearty's** perceptive articulation of the industry's institutionalized practice warrants reiteration "The **Employees** have the responsibility and burden to cite the rules and agreement language relied upon during handling on the property. This, of course, is a fundamental due process right of the other party and where the **rules** are not cited, discussed, or in **some** way stated on the property, the **omitted** rules cannot be supplied for the first time in the submission of claim to this Board." **Conversly**, assessing the pertinency of rules 30(b) and 30(f) the Board finds that they were not supportive of petitioner's claim since no other **employee** worked overtime or was celled. Based on the record, we are compelled to issue a dismissal award.

**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**

The **agreement** was not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this **31st** day of October 1977.