

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22776
Docket Number SG-22650

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(National Railroad Passenger Corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corporation (former New York, New **Haven &** Hartford Railroad **Company**):

On behalf of Mr. Daniel Tarasevich, whose position of Leading Signal Maintainer at Old **Saybrook** was abolished on February 2, 1977, for travel time, mileage and the difference in pay of what he now makes and what he made as Leading Signal Maintainer, plus all overtime made by the Maintainer."

(The foregoing claim should be allowed as presented because Carrier did not render a decision on the June 11, 1977 appeal until **January** 18, 1978)

OPINION OF BOARD: This claim is before the Board **on** a claim of procedural irregularity.. Specifically, the Organization claim that Carrier's highest designated officer did not respond to an appeal within the time limits.

Claimant, handling his own claim, submitted it to the supervisor C & S. It was timely denied by that officer. He did not appeal the denial, but sent copies of the original claim to the next higher officer and to the highest designated officer, The contention here is that the claim was not answered as required by the Rules. However, the Board finds that there was no appeal in the accepted sense, and that the highest **designated** officer was not on notice that an appeal had been made. Carrier's highest **designated** officer received what looked like an information copy of a claim, carrying the original claim date and was not put on notice by it that he had received an appeal which required an answer. Under the circumstances, the Board will dismiss the claim, since Carrier did not commit any procedural irregularity as the claim was not appealed by the sending of a copy of the original claim. Carrier cannot be found to have failed to answer an appeal on time when the fact is that no appeal **was** made.

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 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 14th day of March 1980.

