

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23090
Docket Number CL22583

William M. Edgett, Referee

PARTIES TO DISPUTE: ((Brotherhood of Railway, Airline and Steamship Clerks,
(Freight **Handlers, Express and Station Employees**
(Southern Freight Tariff Bureau

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood (668651) that:

(a) The Bureau violated the Rules of the controlling **Agreement** and in particular **Rule 32** and the Seniority Rules when the Bureau failed to allow Claimant T. G. Wade to perform overtime work on February 5, 1977.

(b) The Bureau **shall now** be required to compensate the claimant eight (8) hours pay at one and one-half **time** his pro rata rate for February 5, 1977.

OPINION OF BOARD: Before getting to the **merits** of the instant claim, we **must** dispose of the Organization's contentions that the claim stands **to be allowed** as presented account the Bureau failing to timely deny the claim at one of the appeal levels established by the Agreement.

The facts in the record develop **that** the claim **was** appealed to the Bureau's Tariff **Publishing** Officer on June 10, 1977. Subsequent to that date a flurry of correspondence occurred connected with the setting of an agreeable date for a conference on **the** claim. A conference was not set within the time limits established in the Agreement and **these time** limits were not specifically extended by agreement; nor did the Bureau specifically deny the claim in writing within the allotted time. On **November 9**, 1977 the **Organization** notified the Bureau **that** the claim had not been **answered** within the **60-day time** limit provided in the Agreement and asked **that** the claim be allowed **as** presented. X-1

The record is clear the claim was not denied within the time limits of Article V of the August 21, 1954 National **Agreement**. Thus, it is to be allowed as presented. The fact that the claim was not discussed in a conference within the **time limits** or the fact that a conference was set beyond the date the time limits expired does not, without specific agreement to the contrary, toll or extend the **time** limits of the Agreement. X-2

The claim will be sustained on the **time** limit violation. We do not deal with the merits of 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 Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 15th day of December 1980.

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