

The Third Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(Escanaba and Lake Superior Railroad Company)

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

1. The Carrier violated the Agreement when it furloughed Trackman J. Helgren and J. Vermulen on April 2, 1982 and retained junior employees in service (System File ELST-3073).

2. President John Larkin failed to disallow the claim (appealed to him under date of August 2, 1982) as contractually stipulated within Rule 52(a).

3. As a consequence of either or both (1) and/or (2) above, the claimants shall

'each be allowed pay for all time worked by junior employees Broeders and Laraby, claim to continue for as long as this violation of the Agreement continues.'"

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

In Third Division Award No. 25121, involving the same Carrier and the same Organization and involving the same basic procedural concern, we concluded that Rule 52(a) of the Controlling Agreement was violated when Carrier failed to disallow the initial Claim within the mandatory sixty (60) days time limits. In Third Division Award 26847, also involving the same contractual parties and an analogous asserted procedural impropriety, we found for the Organization and sustained the initial claim up until the date the General Chairman notified Carrier of Rule 52(a)'s applicability.

In the case at bar, and upon a careful analysis of the accumulated appeals record, we find no reason to deviate from our decisional holding in Third Division Award 26847, except that the cutoff point for compensatory adjustment will extend to March 24, 1983. By letter of this date, the General Chairman notified Carrier that the Employer failed to disallow within the required sixty (60) days time period, the Organization's grievance appeal letter dated August 2, 1982.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.