

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27227
Docket No. MS-27421
88-3-86-3-632

(Robert E. Shaffer
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex-parte submission on this date covering an unadjusted dispute between Robert E. Shaffer and the Consolidated Rail Corporation involving the question:

Re: Time claim CR-2434
Allegheny Division Claim #MW 6-24
Filed under rule 26 of agreement between Consolidated Rail Corporation and The Brotherhood of Maintenance of Way Employees(continuing Claim)

During calender year 1984 I became disabled due to an injury of the hand which became infected(injury not due or carrier related) I was placed in the hospital from November 16, 1984 until November 24, 1984 (not in dispute) and continued on the disabled and sick until January 14, 1985(not in Dispute).

Under the National Vacation Agreement of December 17, 1941 which states in part:

(h) Calender days in each current qualifying year on which an employee renders no service because of his own sickness or because of his own injury shall be included in computing days of compensated service and years of continuous service for vacationqualifying purposes on the basis of a maximum of ten(10) such days for an employee with less than three years of service; A maximum of twenty (20) such days for an employee with three(3) but less than fifteen(15) years of service; and a maximum of thirty(30) such days for an employee with fifteen(15) of more years of service with the employing Carrier.

Dispute: Having seven(7) years seniority and employment with Consolided Rail Corporation and the the rules of the National Vacation Agreement of December 17, 1941, being disabled from November 16, 1984 to December 31, 1984 am I entitled to 20 Vacation Credit Days to be used for entitlements requiring a minimum numbers of creditable days.

No Oral Argument" (Sic)

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.

A review of this dispute finds that Claimant's Submission is not signed. In Third Division Award 23170 the majority held:

"The Carrier's submission was not signed as required by that part of Circular No. 1 of the National Railroad Adjustment Board, issued October 10, 1934, which provides:

'SIGNATURES: All submissions must be signed by the parties submitting the same.'

The Organization insists that the Carrier's submission not be considered by the Board as it does not meet the requirements of Circular No. 1. The Organization representative has also called attention of the Referee to the many awards issued by the Board dismissing claims of the employes where it was shown that the provisions of Circular No. 1 were not complied with, and insists that the Board cannot establish a double standard concerning the application of Circular No. 1.

The submission of the Carrier bears no signature. Black's Law Dictionary defines signature:

'SIGNATURE: The act of putting down a man's name at the end of an instrument to attest its validity, the name thus written. A 'signature' may be written by hand, printed, stamped, typewritten, engraved, photographed, or cut from the instrument and attached to another, and a signature lithographed on an instrument by a party is sufficient for the purpose of signing it; it being immaterial with what kind of instrument a signature is made. Smith v. Greenville County, 188 S.C. 349, 199 S.E. 416, 419. Maricopa County v. Osborn, 60 Ariz. 290, 136 P. 2d. 270, 274. And whatever mark, symbol, or device one may choose to employ as representative of himself is sufficient. Griffith v. Bonawitz, 73 Neb. 622, 103 N.W. 327, 339. See Sign.'

The Carrier's Submission fails to meet the signature requirement.

This Board is always reluctant to decide disputes on technicalities. However, the provisions of Circular No. 1 are mandatory and the Board cannot establish a double standard concerning its application. Based upon the record as it exists, the claim will be sustained."

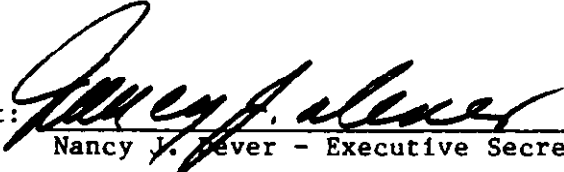
In this instance, we are precluded from reviewing the merits of this dispute because an unsigned Submission violates the provisions of Circular No. 1. We have no other recourse than to dismiss the claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 20th day of July 1988.