

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(The Baltimore and Ohio Chicago Terminal Railway Company

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Baltimore and Ohio Chicago Terminal Railway Company (BOCT):

On behalf of Signal Maintainer Kenneth Roche I.D. 597804 headquarters Argo, Jct. Il. assigned hours 7:30 a.m. to 4:00 p.m. meal period 11:30 a.m. to noon; rest days Saturdays, Sundays and Holidays.

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly, the scope and rules 15 and 21 when they failed to call Mr. K. Roche for a derailment on his territory assigned to him at Argo Jct.

(b) Carrier should now be required to compensate Signal Maintainer Mr. K. Roche for a minimum of (7 1/2) seven and one half hours at one and one half times his regular rate of pay as provided in Rule 15 as he would have received had he been rightly called." Carrier file No. 15-15 (88-4).

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 employes 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.

The record developed on the property shows that on November 3, 1987, a Claim was filed which basically asserted that the Claimant was not called for work on a derailment that occurred at Argo Junction on September 7, 1987. The Carrier responded on December 29, 1987. In pertinent part, the Carrier

stated that the Claim was vague and inaccurate because it did not contain specific data as to the time, cars derailed, and other important data, and that the Carrier had no knowledge of any derailment at Argo Jct. on September 7, 1987. On January 28, 1988, the Organization amended its Claim, on its further appeal, to state that the derailment actually took place on September 20, 1987, and it observed that this was a fact that the Carrier could have ascertained "if it would have checked a little bit further." The Carrier, however, on March 25, 1988, rejected the Claim because it had been amended, contrary to Rule 45 of the Agreement. Moreover, it stated that in this instance, the Organization bore the burden to establish the Claim, a well-established principle in matters such as at issue herein. Following further exchange of correspondence on the property, the Claim was progressed to the Third Division for final resolution.

The Board is governed by the mandatory language of its Circular No. 1 and decisional law flowing from its Awards on similar issues as herein. Namely, the Board lacks jurisdiction for claims which have not been handled in accordance with the requirements of the Agreement, Circular No. 1 and the Railway Labor Act.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of August 1990.