

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employes  
(Soo Line Railroad Company

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

(1) The claim\* as presented by General Chairman G. G. Western on May 8, 1985 to Regional Engineer G. A. Nilsen shall be allowed as presented because the claim was not disallowed by Regional Engineer G. A. Nilsen as contractually stipulated within Agreement Rule 13-1(a) (System File 1 47 NMA 121181/800-46-B-203).

\*The initial letter of claim will be reproduced within our initial submission."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Review of the Organization's Notice of Intent to file Ex Parte Submission filed August 26, 1986, with the Board reveals that the case has been progressed solely on the Organization's contention that Carrier erred because the General Chairman appealed the Claim to the Carrier's Regional Engineer and that appeal was answered by the Carrier's Assistant Regional Engineer. The Organization contends that inasmuch as the appeal was answered "by a party other than the addressee," it constitutes a violation of Schedule Rules 13(a) and (b). The merits of the Claim, which originally centered around the right to contract out certain work involving repair to a prefabricated metal warehouse, were not progressed to the Board and therefore are not properly before the Board for consideration.

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90-3-86-3-593

At the time the Organization raised the procedural argument currently before this Board, there were two other Claims pending involving the very issue raised here. In Third Division Award 27179, the Board summarily concluded that there was no merit to the Organization's contention. In Third Division Award 27590, the Board discussed the issue at great length, reviewing numerous Board Awards, and ultimately concluding that there was no procedural violation. Absent any palpable error in either decision, we adopt the findings and rationale therein as precedent in the instant Claim and, on that basis, rule to deny the Claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
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Nancy J. Peyer - Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1990.