

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30260
Docket No. MW-30143
94-3-91-3-579

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(CSX Transportation, Inc. (former Seaboard
(System Railroad)

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

- (1) The Carrier violated the Agreement when, without a conference having been held between the Chief Engineering Officer and the General Chairman, as required by Rule 2, it assigned or otherwise permitted outside forces (American Railroad Construction Company) to perform the maintenance work of constructing track in the vicinity of Mile Post ANB 862.5, on the Manchester Subdivision of the Atlanta Division, beginning March 9, 1990, up to and including April 5, 1990, [System File ALT-90-31/12(90-726) SSY].
- (2) As a consequence of the aforesaid violation, Foreman K. Turner, Machine Operator C. Heard and Trackmen R. Chaney, C. Clements, A. Hale and C. Daniels shall each be allowed pay at their respective straight time rates for an equal proportionate share of the one thousand eighty (1,080) man-hours expended by the outside forces performing the work outlined in Part (1) above."

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 employee 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.

It is clear from the record in this case that the instant Claim was not conferenced by the Organization on the property. The jurisdictional requirement that a dispute be handled in accordance with the applicable Agreement and the customary practices of the parties is found in Section 153, First (i) of the Railway Labor Act, which reads in pertinent part as follows:

"(i) The disputes between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions...shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes;...."

In addition, Section 2, Second of the Act provides:

"Second. All disputes between a carrier or carriers and its or their employees shall be considered, and, if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carrier or carriers and by the employees thereof interested in the dispute." (Emphasis supplied)

Following a long line of precedents, the Board concludes that the failure to hold a conference on the property deprives the Board of jurisdiction to hear this dispute, and the Claim must accordingly be dismissed.

AWARD

Claim dismissed.

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O R D E R

This Board, after consideration of the dispute identified above, orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 19th day of July 1994.