

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30886
Docket No. CL-30995
95-3-92-3-960

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

(Transportation Communications
(International Union
PARTIES TO DISPUTE: (
(Delaware and Hudson Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the TCU (GL-10908) that:

The following claims are hereby presented to the Company in behalf of Claimant W.L. Whalen:

I. Account being held in the day before and day of working Yardmaster, claim is made for the following dates:

March 8-9	\$67.64 - week ending March 12, 1991
March 15-16	\$67.64 - week ending March 19, 1991
March 22-23	\$67.64 - week ending March 26, 1991
April 5-6	\$67.64 - week ending April 9, 1991
April 12-13	\$67.64 - week ending April 16, 1991
April 19-20	\$67.64 - week ending April 23, 1991

Total - \$405.84

II. Account being held in for Yardmaster April 27, I claim the difference for being held off regular assignment April 26 and 27.

III. Account being held off regular position May 3 and 4 to work Yardmaster on May 4, I claim the difference in pay of \$67.64."

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.

The Organization contends that Carrier violated Rule 28-2 of the Agreement when it failed to respond to the claims in a timely manner. In its view, the claims should be allowed on the basis of this 60 day time limit violation.

Carrier argues that it did not violate Rule 28-2 of the Agreement. It asserts that the reply to the claim was handled in the customary manner on the property within the time frame provided in the Agreement.

We conclude that the Organization is correct in its assertion that a response to a claim is due within 60 days, as required by the Agreement. While it is clear from the March 9, 1992 letter from General Chairman H.W. Randolph to General Manager T.F. Waver that there were ongoing discussions, this does not obviate the requirement to respond in a timely fashion. After all, the Organization was still waiting for a response to its claims. Therefore, Claimant is entitled to payment as requested.

Accordingly, and for the foregoing reasons, the claim is sustained on procedural grounds alone.

As to its merits, the claims are denied. There is insufficient evidence to sustain the claims on the merits.

AWARD

Claim sustained in accordance with the Findings.

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O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 10th day of May 1995.