

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 33504

Docket No. CL-34852

99-3-98-3-549

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

(Transportation Communications International Union

PARTIES TO DISPUTE: (

(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12115) that:

I, Gene Ferrari, claim eight (8) hours pay for Fitchburg Agent job being worked by Dick Bussiere working at Fitchburg, MA, and not at Billerica, MA, where this job was moved. This claim will be continuous as long as this persists. Fitchburg office was closed as of 1500 hour July 7, 1997.

Claim is further made that Carrier violated Rule 38 - Claims/Grievances not involving discipline - when the subject claim was not timely denied at the first level.”

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 were given due notice of hearing thereon.

Claim was originally filed on July 25, 1997 and declined at the local level on August 7, 1997. Claim was appealed to the Carrier's highest designated officer on August 28, 1997. Carrier acknowledged receipt of the appeal on September 3, 1997, but did not deny same. On November 4, 1997, after conference, Carrier denied the claim. Rule 38.4 of the Agreement requires a declination within 60 days.

The Organization's position is well taken. Carrier did not decline the claim as required by the Agreement. However, the claim does not rise to the level of a continuous claim. Therefore, one day's pay will be allowed for July 25, 1997, based on the violation of the time limit.

AWARD

Claim sustained in accordance with the Findings.

ORDER

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 22nd day of September 1999.