

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33972
Docket No. SG-35318
00-3-99-3-183**

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(CSX Transportation, Inc. (former Louisville and Nashville
(Railroad)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation Co. (former Louisville & Nashville Railroad):

Claim on behalf of T. B. Rogers, S. A. Cox, W. E. Gunter, L.P. Grace, J. L. Blackwood Jr., C. C. Pierce Jr., W. E. Hinton Jr., R. P. Enfinger, R. L. Stansberry, K. L. Brown, G. L. Broadway, R. F. Bullock, L. C. Satchfield, E. J. Ward, J. P. Calvert, C. E. Stewart, T. J. Asher, N. Kirksey, C. J. Kays, A. L. Brown, M. O. Stanfill, F. R. Rogers, and J. L. Blackwood for payment of a total of 138 hours, account Carrier violated the current Signalmen’s Agreement, particularly Rules 1, 31, 32, and 51 when it used a System Construction Gang to perform repair work on the signal system at Mile Post 703.9 on January 27, 28 and 29, 1998, and deprived the Claimants of the opportunity to perform this work. Carrier also violated Rule 54 when it failed to provide notice of the disallowance of the claim within the time limits. Carrier’s File No. 15(98-159). General Chairman’s File No. 98-137-11. BRS File Case No. 10772-L&N.”

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.

There is a procedural issue present in this case which must be addressed before any consideration can be given to the merits of the dispute.

From the on-property record of the case, it is abundantly clear that the claim as initially presented by the Organization to the Carrier was not timely denied. There is no evidence of record, nor is there any valid argument advanced by the Carrier to disprove or otherwise mitigate the untimely denial of the initial claim.

The **TIME LIMIT FOR HANDLING CLAIMS** Rule on this property is clear and unambiguous. It specifically provides:

“RULE 54. TIME LIMITS FOR HANDLING CLAIMS.

(a) All claims or grievances must be presented in writing by or on behalf of the employe involved, to the officer of the Carrier authorized to receive same, within sixty (60) days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the Carrier shall, within sixty (60) days from the date same is filed, notify whoever filed the claim or grievance (the employe or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances.”

The Carrier did not deny the initial claim in a timely manner. Therefore, the claim must be allowed as presented without making any review or consideration of the merits or lack thereof of the claim.

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AWARD

Claim sustained.

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 28th day of March, 2000.