

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35381
Docket No. CL-35733
01-3-99-3-650**

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

PARTIES TO DISPUTE: (Transportation Communications International Union
(CSX Transportation, Inc. (former Seaboard Coast Line
(Railroad)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12443) that:

1. Carrier violated the current Clerical Agreement on May 17, 1998, when it failed or denied to call J. L. Stinson (625450) to work position 4ECO154.
2. The Carrier shall now compensate J. L. Stinson, ID No. 625450, eight (8) hours' pay at the punitive rate for this violation.”

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.

The basic facts are not in dispute. The Claimant is the incumbent on Position 4ECO154, which is assigned Monday through Friday with Saturday and Sunday rest days. On May 17, 1998, some work that normally accrues to this position was performed by another employee who was already working that day.

Throughout the handling of the claim on the property, the Organization failed to cite any specific Rule as having been violated by the Carrier's action. The report of conference held December 14, 1998, stated that the Carrier continued to deny the

claim for lack of evidence “. . . to support the claims’ contention of a (unspecified) violation of the Clerical Agreement.”

Because it denies the parties the opportunity to properly develop a complete record of handling on the property, we have repeatedly held that the failure to cite specific Rules on the property to support allegations of Agreement violation is fatal to the claim. For example, see Third Division Awards 19970, 20166, 22706, 26906 and 28408.

While the Organization contended, before the Board, that a Rule citation is not necessary where it is clear from the record that the parties knew what the claim was about, the contention lacked any support from prior precedent. Moreover, the contention is new argument. It was not raised during the handling of the claim on the property and must be rejected for that reason.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby 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 20th day of March, 2001.