

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35637
Docket No. TD-35933
01-3-00-3-14**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

**(American Train Dispatchers Department/
International Brotherhood of Locomotive Engineers
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation**

STATEMENT OF CLAIM:

“A claim/grievance was submitted by Dispatcher, D. S. Sinkkanen on the former Conrail property on March 22, 1999. The Carrier failed to notify Mr. Sinkkanen his claim was not allowed within sixty (60) days in accordance with Rule 17(e) of the Agreement, therefore, his claim must be allowed.

Please notify me when the payroll department will indicate entitlement of two (2) ‘sick days’ and ten (10) supplemental ‘sick days’ [per Rule 20] on his pay-stub as claimed.”

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.

A Rule 17 Grievance Form-Claim for Compensation was initiated by the Claimant on March 22, 1999, referencing Rule 20. This stated as follows:

“Details of Work Performed or Denied: Sick days not shown on pay stub.

Reasons Supporting Claim: Hired in calendar year 1998.”

On June 10, 1999, the General Chairman wrote to the Director Labor Relations as follows:

“A claim/grievance was submitted by [the Claimant] on the former Conrail property on March 22, 1999. . . . The Carrier failed to notify Mr. Sinkkanen his claim was not allowed within sixty (60) days in accordance with Rule 17(e) of the Agreement, therefore, his claim must be allowed.

Please notify me of when the payroll department will indicate entitlement of (2) ‘sick days’ and ten (10) supplemental ‘sick days’ on his pay-stub as claimed.”

Rule 17(e) requires a response within 60 days when “a claim [is] presented in accordance with this rule.” Rule 17(c), however, requires that the employee or designated representative furnish specific information, including the specification of “claims being made, including the rule under which claimed (if known)” and “the reason(s) supporting claims(s).”

Rule 17(d) states in part:

“If a claim is not submitted in the form set forth and prescribed in paragraphs (a) and (c) above, such claims shall not be entertained nor allowed.” (Emphasis added)

Rule 20 (Sick Leave) makes no mention of posting current sick leave entitlement on an employee’s pay stub.

The claim failed to meet the requirements of Rule 17(d) in that, among other deficiencies, it simply notes the absence of information on a pay-stub. As such, Rule

17(d) permits the Carrier not to “entertain” the claim. Thus, the absence of a timely first response from the Carrier is without significance.

During the claim handling procedure, the parties engaged in an extended discussion of the timing and extent of sick leave eligibility. Because the record shows no indication that the Claimant was in any manner denied appropriate sick leave benefits and, more significantly, made no such claim, the parties’ discussion is a futile exercise.

AWARD

Claim dismissed.

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 28th day of August, 2001.