

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 39469
Docket No. SG-37408
08-3-NRAB-00003-020438
(02-3-438)**

The Third Division consisted of the regular members and in addition Referee John R. Binau when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific Railroad:

Claim on behalf of R. W. Hildebrand, for 10 hours at the Assistant Signal Foreman's rate of pay plus mileage for 244 at \$0.325 per mile, account Carrier violated the current Signalmen's Agreement, particularly Rule 12, when on March 13, 2001, it failed to provide transportation from Bakersfield, California to Oxnard, California, and then dismissed the Claimant from work for the day after he used his own vehicle to report to the work location. Carrier compounded its violation when it failed to provide notice of the disallowance of the claim within 60 days from the date the claim was filed in accordance with Rule 69. General Chairman's File No. W-12-106. BRS File Case No. 11968-UP."

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.

This case involves a single procedural issue. The Organization alleged that it filed a claim on March 25, 2001 seeking the relief described above. It stated that the Carrier did not respond to the claim. The Carrier advised the Organization that it had no record of having received such a claim.

The Carrier first received notice of the claim by letter dated June 13, 2001 from the General Chairman addressed to the Carrier's highest designated officer for claims. In that letter, the Organization stated that its claim had been filed on March 25, 2001, and that the Carrier had not responded within 60 days as required by the Agreement. The Carrier did not respond to the June 13 letter. In a letter dated August 30, 2001 the Vice General Chairman scheduled the claim for conference along with other claims. During conference, the Carrier advised the Vice General Chairman that the Carrier had no record of having received the initial claim. The Vice General Chairman confirmed the discussions in a letter dated December 10, 2001 and again asked that the claim be paid because the Carrier did not respond to the initial claim within 60 days. The Carrier finally responded to the Vice General Chairman by letter dated February 8, 2002.

The Board finds that the Carrier violated the time limits of the Agreement. The record confirms that the Carrier made no response to any of the Organization's letters until February 25, 2002. As noted above, the Carrier did not respond to the June 13, 2001 letter from the General Chairman. Because the Carrier never responded to this letter and never placed its position on the record, the Board has no choice but to sustain the claim.

AWARD

Claim sustained.

Form 1
Page 3

Award No. 39469
Docket No. SG-37408
08-3-NRAB-00003-020438
(02-3-438)

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 29th day of December 2008.