

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward A. Lynch, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN OF AMERICA

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee, Brotherhood of Railroad Signalmen of America, on the Pennsylvania Railroad:

(A) Claim that the Carrier violated and continues to violate Article 8, Section 8b of the current agreement when it fails to install and maintain adequate set-offs and runways for motor cars on territories where motor cars are used.

(B) Claim that all T & S Employees affected by the above violation be paid in addition to their regular time made two hours and forty minutes at time and one-half rate for each day starting ninety days prior to the date of this claim and continuing to the date that proper set-offs and runways are installed.

(C) Claim made in behalf of the following T & S Employees as they may be affected by the above.

F. A. Hodson	R. H. Lewis	H. M. Roland	J. R. Donovan
W. J. Quick	C. N. Hudson	R. C. Kirchner	M. E. Newcomer
R. T. Tarvin	H. L. Rickels	A. R. Morgan	H. M. Newcomer
W. G. Reuther	J. R. Helmick	E. E. Maham	A. D. Poe
J. S. Smith	W. Abner	J. T. Wallace	Wm. Bath
J. H. Dobbins	W. E. Bergen	F. L. Bath	
S. Briggs	L. J. Kerns	G. A. Black	

EMPLOYEES' STATEMENT OF FACTS: Under date of September 1, 1951, Local Chairman L. J. Kerns presented the claim to Supervisor Telegraph and Signals, L. W. Hayhurst, as follows:

"I am presenting to you the following claim in behalf of the T & S Employees who are listed in part (C) of the following claim.

(A). Claim that the Carrier violated and continues to violate Article 8, Section 8b of the current agreement when it fails to install and maintain adequate set-offs and runways for motor cars on territories where motor cars are used.

covered by the claim. Obviously, this is a fantastic sum of money for an alleged violation of the Agreement, even with merit.

The Carrier desires to make a final comment with respect to the claim presented to your Honorable Board in behalf of H. L. Rickels for compensation in the amount of two hours and forty minutes at the rate of time and one-half for each date commencing on and after June 3, 1951. The claim originally presented to the Supervisor, T. & S. by the Local Chairman in a letter dated September 1, 1951, contained a request for compensation for and in behalf of H. L. Rickels and twenty-five (25) other named employees. Following denial of the claim by the Supervisor, T. & S., in a letter dated September 14, 1951, no action was taken by the Organization to further progress the claim for compensation originally made in behalf of H. L. Rickels, and it is clear, therefore, that the claim made in his behalf as it appears in the Employees' Statement of Claim to your Honorable Board, quoted at the beginning of this Submission, was not timely handled by the Employees on the property in accordance with the provisions of Article 7, Section 2 (See pages 10 and 11 above), nor for that matter under the provisions of the rule on which the Employees improperly rely, paragraph (e) of Article 2, Section 21 (see footnote 1 above), and must be denied in its entirety.

III. Under The Railway Labor Act, The National Railroad Adjustment Board, Third Division, Is Required To Give Effect To The Said Agreement And To Decide The Present Dispute In Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Third Division, is required by the Railway Labor Act to give effect to the applicable Agreement between the parties, and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions". The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties hereto and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The Carrier has shown that under the applicable Agreement the Claimants are not entitled to the additional compensation which they claim by reason of the alleged violation of Article 8, Section 8 of the Agreement.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employees in this matter.

Oral hearing is desired.

All data contained herein have been presented to the employees involved or to their duly authorized representative.

(Exhibits not reproduced).

OPINION OF BOARD: It is agreed by the parties that the question at issue in SG-8417, as in SG-8416 and SG-8418, turns on whether the claim involved in this case is before us under Article 3, Section 21(f) of the applicable Agreement, as alleged by Organization.

Article 2, Section 21(f) reads as follows:

“(f) (Effective June 1, 1950) When a claim for money alleged to be due has been presented in accordance with the foregoing paragraph (e), and is not allowed, the employe presenting the claim and the Local Chairman (when the claim is presented by the Local Chairman) shall be notified to this effect, in writing, within thirty (30) days from the date the claim was discussed with the Superintendent. When the employe or the Local Chairman (when the claim is presented by the Local Chairman) **is not so notified, the claim shall be allowed.**” (Emphasis ours.)

The parties to the dispute, their contentions and the rule at issue, are the same as in companion docket SG-8416, this day decided by Award 7845 and said Award now is held to be controlling in this docket.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement has not been violated.

AWARD

Claims (A), (B) and (C) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1957.