

Award No. 16003

Docket No. MW-14886

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The claim presented in behalf of Section Laborer John A. Cox by General Chairman J. G. James in his letter* of March 18, 1963 to the Carrier's Roadmaster should have been allowed as presented because the Carrier's Superintendent failed to timely disallow said claim on appeal and, as a consequence thereof.

(2) The Carrier now be required to allow the claim as presented in the afore-mentioned letter* of March 18, 1963. (Carrier's Case D-1440.)

EMPLOYES' STATEMENT OF FACTS: The following quoted correspondence fully and accurately sets forth the factual situation involved in this case.

LETTER 1

"February 25, 1963

Mr. John E. Weiland, Roadmaster
CMStP&P Railroad
310 Rea Building
Terre Haute, Ind.

Dear Sir:

Please accept this as a formal and initial claim in favor of Track Laborer John A. Cox of Linton, Ind. The claim involved here is for January 1, 1963, holiday pay, and pay for every working day Mr. Cox is losing by being laid off out of his turn.

*This letter will be quoted as "Letter No. 3" in the Employees' Statement of Facts.

OPINION OF BOARD: This case is here strictly on a time limit question under Article V.

The record reveals that the General Chairman, by letter dated 25 February, 1963, presented this claim to the Roadmaster. The claim was timely presented with respect to dates covered therein, including one for 1 January, 1963. The General Chairman amended the claim by letter to the Roadmaster, dated 11 March, 1963, and it too was timely as to dates covered therein. The General Chairman again wrote the Roadmaster under date of 18 March, 1963, the substance of which was to codify and limit the claims as covered by his letters of 25 February, 1963, and 11 March, 1963. The Roadmaster made timely disallowance of the claim.

Carrier contends, based on the General Chairman's letter of 18 March, 1963, that the claim for 1 January, 1963, is barred as it was not presented within sixty days of the event. We disagree. As stated above, the claim for 1 January, 1963, was first presented, and timely so, in the letter dated 25 February, 1963.

The record further shows that the General Chairman, by letter dated 22 May, 1963, appealed the claim to the Superintendent and that the Superintendent failed to timely disallow it. In view thereof, the claim is payable under Article V.

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 Carrier violated the Agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1967.