

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19855
Docket Number MW-19753

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Burlington Northern Inc. (Formerly Northern Pacific
(Railway Company)

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

(1) The Carrier violated the Agreement when it called and used Sectionman Langham instead of Truck Driver J. L. Dempsey to perform truck driving work during overtime hours on January 18, 1971 (System File MW-6(d) - 8 4/13/71).

(2) Truck Driver J. L. Dempsey now be allowed ten (10) hours' pay at his time and one-half rate because of the violation referred to within Part (1) of this claim.

OPINION OF BOARD: Carrier resists the Organization's claim in this case because, among other things, the Organization failed to cite any specific Rule violation while the claim was being considered on the property of Carrier.

In the initial claim, the Organization asserted fact allegations and made a money claim. In reply to that claim, Carrier stated that the schedule rules did not support the Organization's position.

In its appeal, the Organization stated that its claim was consistent and sustainable under the terms of the Agreement, but again failed to specify what, if any, rule was allegedly violated. In reply to that appeal and in subsequence correspondence, Carrier advised the Organization that its appeal had no support in the schedule rules or Agreement and that it had failed to cite any rule to support the claim.

The Board is of the view that the position of the Carrier is well taken and that the matter is properly disposed of without reaching the merits.

It appears rather obvious that when a Carrier specifically advises the Organization that it has failed to identify the rule or rules alleged to have been violated, the Organization is obligated to advise the Carrier of the rule under which it seeks redress.

Accordingly, we will dismiss the claim for the reason that the Organization, at no time on the property, cited any specific rule which Carrier allegedly violated. See Award No. 14754 (House). See also Award No. 13283 (House), Award No. 13741 (Dorsey), Award No. 14118 (Harr), Award No. 14772 (Dorsey) and Award No. 19773 (Ritter).

Since the Board dismisses the claim for the reasons stated above without consideration of the merits, the Board does not deal with other arguments advanced by the parties.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauloe
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1973.