

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19889
Docket Number SG-19617

Frederick R. Blackwell, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(J. F. Nash and R. C. Haldeman, Trustees of the Property
(of Lehigh Valley Railroad Company, Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Lehigh Valley Railroad Company on behalf of:

Foreman F. X. Jewell (\$18.20) and Signalman D. E. Allardyce (\$19.20) for expenses incurred in connection with hearing held at Sayre, Pa., on June 29, 1970.

OPINION OF BOARD: This dispute involves a claim for auto mileage and meal expense incurred by claimants while attending an investigation in which they were principals. In handling on the property, the Carrier contended that the claim was not initially presented in accordance with the established procedure covering such disputes. In response, the Organization raised the procedural issue that Carrier gave no written reasons for its denial of the claim as required by Article V of the August 21, 1954 Agreement.

The procedural facts are that claimants auto mileage and meal expense were submitted to the Signal Construction Engineer on Carrier's Form 66, which is a standard expense account form used by Carrier employees in all departments and classifications, including employees covered by schedule agreements. The Forms 66 were returned not approved on July 23, 1970 by the Signal Construction Engineer. On August 22, 1970, the Organization submitted a letter to the Chief Engineer, appealing the July 23, 1970 decision; and on October 15, 1970, the Organization took a final appeal to the Director of Labor Relations and Personnel.

The record shows that the Signal Construction Engineer is a proper official with whom to file claims in the first instance; however, the Carrier asserts that Form 66 does not constitute a proper statement of claim and that a claim should have been filed with the Signal Construction Engineer after he returned the Forms 66 not approved.

As regards the sufficiency of Form 66 as a proper statement of claim, Petitioner calls attention to Award 12391 (Stack) which ruled adversely to Carrier on a somewhat similar issue. There, this Board held that a claim was properly presented when a Maintenance of Way Foreman filled out and filed time slips

for the employees in his crew who claimed pay for time spent in traveling with boarding cars during the movement of a steel bridge crew outfit. These facts seem quite close to the facts of the instant dispute. However, the Carrier calls attention to Award 18256 (Dorsey) which involved this same Carrier and the same Form 66, and which ruled favorably to Carrier on the identical form and issue under consideration here. In pertinent part, Award 18256 states:

"Claimant sent a standard expense form (Form No. 66) to the Signal Construction Engineer for transportation costs for week-end trips from a boarding car to his home and return which was disallowed. Until the date of the disallowance no dispute could come into being. The disallowance became the subject matter of the Claim before us.

The General Chairman initiated the Claim by presenting it to Engineer, Signals and Communications.

It is the position of Carrier that the Claim should have been initially presented to the Division Supervisor or the Signal Construction Engineer to satisfy its handling in the usual manner on the property.

In a letter dated April 3, 1968, addressed to the Chief Engineer the General Chairman made admission as to the usual manner of handling claims on the property:

I must call to your attention that it has always been the Local Chairman's duties to represent the Brotherhood of Railroad Signalmen and present their grievances to the Division Supervisor or the Signal Const. Engineer and then present them to the Engineer - Signals and Communications. It is the duties of the General Chairman to continue grievances and present them to the Chief Engineer and then to the Chief of Personnel. ***

This admission compels the finding that the instant Claim was not handled in the usual manner. Carrier's motion to dismiss is GRANTED." (Emphasis supplied)

The procedural facts and issues involved in Award 18256 are identical to those presented in this record and, consequently, we shall follow the ruling of that Award. The underlined portion of the foregoing quotation is a clear-cut ruling by this Board that no dispute existed until Form 66 was not approved and, hence, it necessarily follows that the prior submission of expenses on Form 66 did not constitute the filing of a proper claim. Thus, after the disallowance of Form 66, the claimant or the Organization should have submitted a claim to a Carrier official authorized to receive claims in the first instance. This was not done. We conclude therefore that the claim was not handled on the property in accordance with the established procedure and we shall dismiss the claim.

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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

The claim is dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 8th day of August 1973.