

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19960
Docket Number CL-19940

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
(
(J. F. Nash and R. C. Haldeman, Trustees of the
(Property of Lehigh Valley Railroad Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7148) that:

(a) Carrier violated the Agreement between the parties, effective as revised May 1, 1955, when it blanked a regularly assigned position for an excessive period of time, and permitted a Carrier Official holding a position exempt from the Agreement, to perform essential duties of the blanked position.

(b) The Carrier shall be required to compensate H. F. McKellin and J. E. Sinclair, one hour each daily, at the punitive rate, from July 1 to August 9, 1971 inclusive, the dates position was blanked, and the work performed by Official Excepted Personnel.

OPINION OF BOARD: Initially in this matter the Carrier contends that the Claim as presented on the property was too vague and indefinite and hence defective: Carrier persisted in this position from the outset and throughout the handling of this Claim. Carrier states that the letter of July 17, 1971 presenting the Claim alleges that certain unspecified duties of a blanked position were performed by the incumbent of an excepted position. Nowhere in the handling of this Claim on the property was there any data furnished as to how claimants were affected, what duties were performed improperly, when they were performed, or how two claimants could each have a claim involving one position. Carrier concludes that the claim is improper under the provisions of Rule 33 (adopting the provisions of Article V of the August 21, 1954 National Agreement).

Carrier's position with respect to the deficiency of the claim is well taken. The Board has held in numerous Awards that the burden of establishing all the essential elements of a claim must be met by Petitioner. In Award 16675 we said:

"...The awards emanating from this Board establishing the principle that claims must be specific and that Carrier is under no obligation to develop the claim for the petitioner are too numerous to mention. Suffice it to say that the principle is well established and not subject to dispute. The burden is on Petitioner to present facts sufficiently specific to constitute a valid claim. The vagueness and indefiniteness of the instant claim is therefore fatal and renders a proper adjudication of the merits impossible.

"We will dismiss the claim."

In this case also, we must dismiss the Claim.

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. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September 1973.