

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20106
Docket Number MS-20094

Irving T. Bergman, Referee

PARTIES TO DISPUTE: (J. R. Lewis
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: That the Carrier violated the current Clerks Agreement particular rules 1-3-12 and 65, when under the date of January 14, 1972 it posted notification, file 16-B cancellation of 1st. Relief Clerk, Portsmouth Scale Office which was assigned to me by file 16-B under the date of January 13, 1972. This position was later assigned to Clerk A. B. Hale, Extra Clerk, Portsmouth, West Yard.

Due to the Carrier's failure to comply with the provisions of the current Clerks Agreement, please accept this claim and to run continuous until the violation is corrected for eight (8) hours per day, five days per week, assigned hours per bulletin indication and at the monthly rate of pay in the amount of \$780.18 or \$772.16 whichever applies, these amounts to include future adjustments.

No oral hearing is requested in this submission.

OPINION OF BOARD: This claim was handled in the usual manner except for the conference required by reading together both Section 3, First (i) of the Railway Labor Act and Circular No. 1, of the National Railway Adjustment Board. Prior Third Division Award 19620 discussed at length the necessity for the conference to comply with the Act and the Rule of the Board including reference to other prior Awards. It would serve no purpose to repeat the reasoning set forth in the prior Award involving the same carrier in an identical situation.

In addition, the Petitioner was duly informed of the usual manner for holding a conference which has been the practice between the Organization and the Carrier, and the Carriers desire to confer on a date and time satisfactory to the Petitioner, Petitioner's Attachment "L". The Petitioner wrongfully elected to consider this offer to confer as a refusal by the Carrier to meet with him and rejected the opportunity provided for the conference, Petitioner's Attachment "M". If individual employees were permitted unilaterally to determine the place for conference in each claim submitted rather than to conform to the usual manner and orderly procedure mutually agreed upon between the Organization and the Carrier for all claims, the result would be chaos and confusion. We adopt the reasoning of Award No. 19620 as though fully set forth herein.

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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;

This case is not properly before us and we do not have jurisdiction.

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 25th day of January 1974.