

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20520
Docket Number CL-20449

David P. Twomey, Referee

(System Board of Adjustment No. 218
(Brotherhood of Railway, Airline & Steamship Clerks
PARTIES TO DISPUTE: (
(Norfolk and Western Railway Company
((Lake Region)

STATEMENT OF CLAIM: Claim of the System Board of Adjustment No. 218 (GL-7383) on the Lake Region, (former NKP), Norfolk and Western Railway Company, that:

1. Carrier failed to comply with Article V, Section 1(a) of the August 21, 1954 Agreement in handling claim filed by and on behalf of H. G. Prinz, Clerk, Calumet Yard - Chicago Terminal - Chicago, Illinois.

2. The claim of Clerk H. G. Prinz be allowed as presented, i.e.; "8 hours at punitive rate for April 1, 1972, and for each and every day thereafter until claim has been satisfied."

OPINION OF BOARD: There is no dispute concerning the basic facts involved in this claim. Claimant filed a claim that was not denied within sixty (60) days as required by the Parties' time limits rule, Article V, Section 1(a) of the August 21, 1954 Agreement. On the Record, Carrier admits that Claimant was not notified that his claim was disallowed until June 21, 1972, seventy-one (71) days after the date on which it was filed, but argues that the delay resulted from a typographical error. Carrier's position is that such typographical errors are not valid basis for payment under the provisions of Article V of the August 21, 1954 Agreement.

The Board has held many times that the time limit requirements of the August 21, 1954 Agreement are mandatory and that failure to timely disallow a claim requires that it "be allowed as presented." See Awards 9760 (La Driere), 10138 (Daly), 10500 (Hall), 12233 (Engelstein), 12472 (Kane), 14759 (Ritter), 16564 (Dorsey), 19361 (Devine), 19946 (Blackwell), and 20410 (Edgett).

We will sustain the claim. However, in accordance with National Disputes Committee Decision No. 16, dated March 17, 1963, Carrier's denial letter dated June 21, 1972 stopped Carrier's liability arising out of its failure to comply with Article V of the August 21, 1954 Agreement as of that date.

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 Carrier violated the time limits provisions of the Agreement.

A W A R D

Claim sustained for eight (8) hours at the punitive rate for each day in the period April 1, 1972 to June 21, 1972, inclusive.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Parker
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November 1974.