

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21682  
Docket Number CL-21570

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and  
( Steamship Clerks, Freight Handlers,  
( Express and Station Employees  
(  
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,  
GL-8061, that:

1. Carrier violated Rule 3, and other provisions of the Agreement, when it deprived Utility Clerk C. E. Jordan of his seniority rights by refusing to permit him to protect his assigned position of Utility Clerk, 3:59 p.m. to 11:59 p.m., Savannah, Georgia, Sunday, July 28, 1974.

2. Carrier shall be required to allow C. E. Jordan one day's pay, eight (8) hours at the applicable rate of pay, for the violation set forth above.

OPINION OF BOARD: This dispute involves an absence due to illness and the problems attendant upon Claimant's attempt to return to work. Carrier argues initially that the Claim is deficient since the Organization failed to cite any specific rule violations while the Claim was being processed on the property. An examination of the records of the dispute indicate that Petitioner, with its submission, for the first time alleged violations of Rules 3, 22 and 50 of the Agreement; no such reference to rules violations were made on the property prior to the appeal to this Board. Petitioner presented no defense to Carrier's argument with respect to the lack of rule specification.

The Board has consistently dismissed claims where no rules were cited on the property but were specified for the first time in the submissions to this Board. For example, in Award 19773, we said:

"The awards are abundant to the effect that the Organization can not prevail before the Board on the basis of rules that were not cited or discussed during usual handling on the property."

This issue was discussed fully by this Board in Award 13741, in which we said, inter alia:

"It is too late to supply the specifics, for the first time, in the Submission to this Board - this because: (1) it in effect raises new issues not the subject of conference on the property; and (2) it is the intent of the Act that issues in a dispute, before this Board, shall have been framed by the parties in conference on the property."

As indicated above, we are unable to reach the merits of this dispute; it must be dismissed.

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;

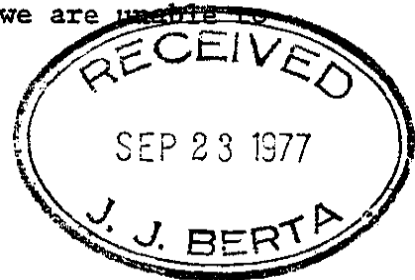
That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

Upon the record made on the property, we are unable to adjudicate the merits of the claim.

A W A R D

Claim dismissed.



NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Paulose  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1977.