

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21774
Docket Number MW-21717

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(
(Louisville & Nashville Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when, on December 21, and 22, 1974, Truck Driver P. E. Brown was not used to drive the truck used by Assistant Roadmaster O. A. Cotton, Jr. to patrol and inspect track
[System File 1-12(107)/E-304-18 E-304]

(2) As a consequence of the aforesaid violation, Truck Driver P. E. Brown shall now be allowed 24 hours of pay at his time and one-half rate.

OPINION OF BOARD: The Board has carefully reviewed the specific charges raised by claimant in his petition to carrier and finds that the rule violations asserted therein particularly Rules 30(b) and 30(f) respectively were subsequently expanded in claimant's exparte submission to include Rule 1 (Scope), Rule 2 - Exceptions, Rule 8(a) and Rule 30(g). Admittedly, said modification represents a substantially changed petition in that the additional rule violations cited were never handled on the property pursuant to well established procedures.

Moreover, mindful that claimant averred "or any other applicable rules of the October 1, 1973 agreement" in his original complaint, it would be well nigh impossible to ascertain with any degree of competence what rules were relevant to claimant's specific charges. This represents a shotgun approach, which is patently inconsistent with the bona fides of an efficient and expeditious grievance resolution process. Third Division Award 21441 which dealt with a similar fact situation appears dispositive of the issue. Referee McBrearty's perceptive articulation of the industry's institutionalized practice warrants reiteration "The Employes have the responsibility and burden to cite the rules and agreement language relied upon during handling on the property. This, of course, is a fundamental due process right of the other party and where the rules are not cited, discussed, or in some way stated on the property, the omitted rules cannot be supplied for the first time in the submission of claim to this Board." Conversely, assessing the pertinency of rules 30(b) and 30(f) the Board finds that they were not supportive of petitioner's claim since no other employe worked overtime or was called. Based on the record, we are compelled to issue a dismissal award.

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 agreement was not violated.

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 31st day of October 1977.