

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22311  
Docket Number MS-22186

Nathan Lipson, Referee

PARTIES TO DISPUTE: (John D. Murdock  
(  
(Seaboard Coast Line Railroad Company

STATEMENT OF CLAIM: "Statement of claim: Claim of John D. Murdock  
that:

Carrier violated the agreement when it allowed Mr. H. P. Moore to displace Mr. M. Z. Bishop from his regular assignment. He, in turn, displaced Mr. J. D. Murdock from his regular assignment on June 14, 1976. Carrier shall now compensate Mr. J. D. Murdock at the time and one-half rate for June 14, 1976 and each succeeding date that he is required to work outside of his assignment. Carrier shall restore Mr. J. D. Murdock to his regular assignment at the earliest opportunity.

This claim is now being amended to include travel time and milage from Hopewell, Va. to Collier Yard, Va. and Collier Yard, Va. to Hopewell, Va. continuing in affect from June 14, 1976. This amendment is be reference made a part of this claim as though it was in the original.

This claim was first submitted to Mr. J. R. Burgess, F.A., Petersburg, Va. on 7/25/76 and declined on 7/26/76; Rejection of Mr. Burgess' declination was submitted on August 2, 1976 and appeal forwarded to Mr. Strange, Supt., Rocky Mount, N.C. on 9/2/76; This appeal was declined by Mr. Strange on 9/29/76 and rejection of his declination was submitted on October 5, 1976."

OPINION OF BOARD: In its response to the Claimant's submission to this Board, the Carrier has pointed out "no conference was held on the property in an effort to dispose of the claim prior to submission to your Board. A conference was arranged by Carrier, but declined by the Claimant."

The record reveals that the Carrier proposed a conference with Claimant Murdock on Tuesday, January 25, 1977, at the SCL General Office Building in Jacksonville, Florida. The Carrier's letter of December 23, 1976 to Claimant concluded with the request "please advise if the time and date are satisfactory." On March 6, 1977

Mr. Murdock declined the offer of a conference at the place proposed by the Carrier, and no conference was held.

X This Board must note that Section 2, Second, of the Railway Labor Act requires that a conference be held on all disputes. Section 3, First (i) indicates that disputes between an employee and a Carrier "shall be handled in the usual manner up to and including the Chief Operating Officers of the Carrier designated to handle such disputes." Said handling is a specific prerequisite to an appeal to the National Railroad Adjustment Board. It follows that a failure to hold the required conference prevents this Board from assuming jurisdiction.

Given the facts in the record, it is clear that in refusing to attend a conference at the Carrier's offices -- the place that labor disputes are normally considered -- the Claimant deliberately rejected "the usual manner" of dispute resolution. Instead, the employee demanded that a meeting be scheduled at his convenience. The Carrier is not obligated to meet in accordance with the desires of the individual, but is, as indicated above, required to process claims in the "usual manner."

It is self-evident that responsibility for the failure to meet the requirements of the Railway Labor Act lies squarely with the Claimant. Various Third Division Awards, including Award 20106 (Bergman) and Award 22028 (Hamilton), support the conclusion that a claim not handled in accordance with the requirements of the Act is a claim over which this Board lacks jurisdiction. That is clearly the situation in the instant case, and the claim must be dismissed for such reasons.

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 was **not** progressed on the property as required by the Railway Labor Act.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of February 1979.