

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23090  
Docket Number CL-22583

William M. Edgett, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(  
(Southern Freight Tariff Bureau

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8651) that:

(a) The Bureau violated the Rules of the controlling Agreement and in particular Rule 32 and the Seniority Rules when the Bureau failed to allow Claimant T. G. Wade to perform overtime work on February 5, 1977.

(b) The Bureau shall now be required to compensate the claimant eight (8) hours pay at one and one-half time his pro rata rate for February 5, 1977.

OPINION OF BOARD: Before getting to the merits of the instant claim, we must dispose of the Organization's contentions that the claim stands to be allowed as presented account the Bureau failing to timely deny the claim at one of the appeal levels established by the Agreement.

The facts in the record develop that the claim was appealed to the Bureau's Tariff Publishing Officer on June 10, 1977. Subsequent to that date a flurry of correspondence occurred connected with the setting of an agreeable date for a conference on the claim. A conference was not set within the time limits established in the Agreement and these time limits were not specifically extended by agreement; nor did the Bureau specifically deny the claim in writing within the allotted time. On November 9, 1977 the Organization notified the Bureau that the claim had not been answered within the 60-day time limit provided in the Agreement and asked that the claim be allowed as presented. X-1

The record is clear the claim was not denied within the time limits of Article V of the August 21, 1954 National Agreement. Thus, it is to be allowed as presented. The fact that the claim was not discussed in a conference within the time limits or the fact that a conference was set beyond the date the time limits expired does not, without specific agreement to the contrary, toll or extend the time limits of the Agreement. X-2

The claim will be sustained on the time limit violation. We do not deal with the merits of the claim.

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 Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 15th day of December 1980.

