

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23447
Docket Number CL-23166

Rodney E. Dennis, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-8896)
that:

Claim No. 1:

(a) Carrier violated the Clerks' Agreement on August 12 and 19, 1976 when they arbitrarily rearranged Clerk L. J. Bellottie from his regular assignment to Position T-43 on each date.

(b) Claimant Bellottie shall now be allowed eight (8) hours pay at the pro rata rate of Position C-156 for each date as a result of this violation.

Claim No. 2:

(a) Carrier violated the Clerks' Agreement on November 13, 1976 when they arbitrarily rearranged Clerk L. J. Bellottie from his regular assignment to Position T-43 on this date.

(b) Claimant Bellottie shall now be allowed eight (8) hours pay at the pro rata rate of Position C-156 as a result of this violation.

OPINION OF BOARD: This case involves two claims. On August 12 and 19, 1976, Claimant L. J. Bellottie was rearranged from his regular relief job on position C-156 to position T-43, to fill a vacation vacancy.

Claimant was also rearranged from his regular job on position C-156 to position T-43 on November 13, 1976. The Organization filed two separate claims. Those two claims have been consolidated for presentation to this Board. The Organization is seeking three days' pay at the pro rata rate as a resolution of this claim.

The parties to this dispute each presented this Board with an alleged procedural violation that they argued should force a decision of this case in its favor. First, the Organization argued that once its initial claim was presented, Carrier's refusal of the claim contained no reasons for its position, other than a statement that the claim was unsupported by agreement rules. This failure on the part of Carrier, the Organization argues, is a violation of Rules 27½ and 38. Consequently, the claim should be paid as requested.

Rules 27½ and 38 require that the reason for the denial of a claim be given by Carrier. In reviewing the record, it is clear that Carrier gave as its reason for denial of the claim that the claim was not supported by schedule rules. This Board in numerous awards has declared that such a response by Carrier meets the requirement of clauses such as Rules 27½ and 38. We therefore deny the Organization's plea on this issue (see, for instance, Third Division Awards 14761, Ritter; 14846, Dorsey; 14864, Ives; 20802, Eischen; and 21132, Eischen.

Carrier, in turn, makes the argument that the Organization has failed to specify which schedule rules support its claim in the handling of the case on the property other than to mention Rules 27½ and 38, which deal with the procedural argument. This failure to specify on the property the rule that Carrier is alleged to have violated bars the Organization from specifying it before this Board now.

A careful review of the record reveals that the Organization did not cite any specific rule that was violated by Carrier. It is a well established principle with this Board that petitions must cite the specific rules alleged to have been violated on the property. They cannot be cited for the first time in the submission to this Board. We therefore must dismiss this claim as not having been properly handled on the property nor before this Board (see Award 21331, Zumas, and awards referenced therein).

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 not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A. W. Paulsen

Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1981.

