

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

(J. H. Piltz  
PARTIES TO DISPUTE: (  
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Furloughed Signalman J. H. Piltz claims earnings of junior employee S. L. Myers from April 12 to May 16, 1989.

Rule violated: Rule 2-A-1 (d) of the Agreement between Consolidated Rail Corporation and the Brotherhood of Railroad Signalman."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

By letter of August 26, 1989, Claimant advised Carrier that a seniority claim, allegedly filed with a Communication & Signal Supervisor, had not been answered within the required time limits of Rule 4-K-1 (a). (The underlying claim asserted a violation of Rule 2-A-1 (d) in the recall of a junior furloughed signal man on April 12, 1989). By letter of November 29, 1989, Carrier denied the claim, as follows:

"Initially, it must be noted a claim was never submitted to ADE Signals J. R. Wiese, the designated supervisor to handle claims and grievances on the Harrisburg Division in accordance with letter dated April 5, 1989, effective May 1, 1989. The alleged claim, addressed to no one and undated, was noted received by C&S Supervisor J. P. McGettigan, who is not a designated Supervisor to receive claims in accordance with Rule 4-K-1(a). From the outset, this violation of Rule 4-K-1(a) renders the alleged claim without merit.

In addition, the alleged claim beginning April 12, 1989, is also in error and is considered excessive since S. L. Myer did not begin working the position in question until April 19, 1989.

For all of the above reasons, the claim is considered without merit and is denied."


The record before this Board establishes indisputably that Carrier notified the Organization, in early 1989, that the Assistant Division Engineer of Signals was designated to handle grievances and claims at the first level under Rule 4-K-1(a). The evidence further establishes that the BRS General Chairman so notified all Local Chairman on April 18, 1989. It is manifest that the claim now before us was not properly filed in accordance with those notices and Rule 4-A-1 (a). By attempting to file a claim directly, without the assistance of his Representative, Claimant assumed the risk of procedural irregularity. Moreover, the intra-organizational form used by Claimant in the first instance cannot be considered a valid claim. See Third Division Award 25245. This claim must be dismissed, pursuant to Section 153, First (1) of the Railway Labor Act, without comment on its merits.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 7th day of May 1992.