

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30114
Docket No. MW-29612
94-3-90-3-590

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
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(Duluth, Winnipeg & Pacific Railway Company

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

1. The Agreement was violated when the Carrier assigned a junior sectionman instead of Sectionman R. Morrison to perform overtime service on October 28, 1989 (System File G.90-008/#271).
2. As a consequence of the aforesaid violation, Mr. R. Morrison shall be allowed ten (10) hours of pay at the sectionman's time and one-half rate."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

From an examination of the record in this case, it is abundantly clear that at no time during the on-property handling of the case was a conference held to attempt to resolve this dispute. One of the objectives of the Railway Labor Act is to effectuate a prompt and orderly settlement of disputes. The Act specifically requires in Section 2, Second. as follows:

"Second. All disputes between a carrier or carriers and its or their employes shall be considered, and, if possible, decided, with all expedition, in conference between representatives designated and authorized so to

confer, respectively, by the carrier or carriers and by the employes thereof interested in the dispute."

It is well settled by the Board that such a conference between the parties is mandatory and is a jurisdictional requirement. Representatives of the plethora of awards in this regard is Third Division Award 14873 where it was ruled:

"No matter how futile a conference might be, a conference must be held on the property prior to submission of a claim to this Board. Otherwise, this Board has no right to consider the claim in question."

Exchanges of correspondence between the parties are not a conference and do not meet the statutory requirements of the Railway Labor Act.

Therefore, the Board has no recourse but to dismiss this case for lack of jurisdiction.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 4th day of April 1994.