

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 30405  
Docket No. CL-30660  
94-3-92-3-445

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Transportation-Communications International  
( Union  
(  
(CSX Transportation, Inc. (former  
( Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Organization  
(GL-10821) that:

CLAIM NO. 1

1. The Carrier violated the terms of the General Agreement and Memoranda thereto when on March 2, 9, 16, 23 and 30, 1990, it failed and refused to utilize the services of Clerk K. C. Brabender on the position of Section Storekeeper, A-155, and,
2. The Carrier shall now arrange to allow Clerk Brabender, ID 610915, eight (8) hours pay at the punitive rate of \$109.06 per day for the above dates.

CLAIM NO. 2

1. The Carrier violated the terms of the General Agreement and Memoranda thereto when it forced Clerk K. C. Brabender to work on Sunday, March 4, 11, 18 and 25, 1990, at the pro rata rate; and,
2. The Carrier shall now arrange to allow Clerk K. C. Brabender, Id 610915, eight (8) hours pay at the punitive rate of \$109.60 per day for the above dates.

CLAIM NO. 3

1. The Carrier violated the terms of the General Agreement and Memoranda thereto when on March 3, 4, 10, 11, 17, 18, 24, 25 and 31, 1990, it failed and refused to utilize the services of Clerk D. F. Vollrath on the position of Foreman, A-154; and,
2. The Carrier shall now arrange to allow Clerk Vollrath, ID. 187658, eight (8) hours pay at the punitive rate of \$109.69 per day for the above dates."

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 employee 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.

The Organization argues that the three claims in this Docket are payable as presented, because Carrier did not issue a timely denial at the initial step. The record is conclusive that the Local Chairman did not receive a denial within 60 days of the date the claims were filed, as required by Rule 27 1/2 of the Agreement. Carrier's argument and evidence that a timely denial was made is not persuasive. Under the explicit provisions of Rule 27 1/2, the claims must be allowed as presented.

AWARD

Claims sustained.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 8th day of August 1994.