

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32476
Docket No. MS-32692
98-3-95-3-572

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

(Geary J. Johnson

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

"The question involved in the dispute is whether workers are entitled to overtime under the agreement overtime rule 14 per the Union agreement, but which management contends such overtime is not to be given to such entitled workers who would work the Saturday shifts covering the unbid Metrolink Ticket Clerk work."

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 were given due notice of hearing thereon.

Carrier asserts two threshold objections to this claim. First, it contends that the initial claim was fatally defective in that it never pointed to an explicit violation or claimed identifiable injuries, but rather sought an advisory opinion from the Board concerning hypothetical claims. Accordingly, Carrier argues that the dispute does not fall within the definition of a claim or grievance under the Agreement, or as

contemplated by the Railway Labor Act. Secondly, Carrier maintains Claimant is now endeavoring to have the Board consider a claim which was never handled on the property in accordance with the requirement of the Railway Labor Act as outlined by Circular No. 1 of the National Railroad Adjustment Board.

Having carefully reviewed the record as it reflects on-property handling of this claim, the Board is satisfied that the Carrier's procedural objections are well founded. The role of the Board is to adjust actual disputes, not to issue advisory opinions or purport to establish the rights of the parties in hypothetical situations. Because Claimant provided no facts on this record to adjudicate, the Board lacks power to grant the relief requested. It is, moreover, undisputed that no conference was ever held on the property between representatives of the parties to consider this claim prior to its submission to the Board. The Railway Labor Act at 45 U.S.C. Section 152 Second makes consideration of claims in such conference a mandatory prerequisite to their review by the Board. For that reason alone, we are without jurisdiction to consider this claim. See Third Division Awards 28617, 31389 and 31837.

AWARD

Claim dismissed.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 23rd day of February 1998.