

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43653
Docket No. MW-43489
19-3-NRAB-00003-160233**

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

**(Brotherhood of Maintenance of Way Employees Division -
IBT Rail Conference
PARTIES TO DISPUTE: (
(CSX Transportation, Inc.**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The claim*as presented by General Chairman D. Albers on September 10, 2014 to Division Engineer J. Fortune shall be allowed presented because said claim was not disallowed by Director Labor Relations R. Miller in accordance with Rule 24(b) (System File I56709914/2014-176425 CSX).**

***The initial letter of claim will be reproduced within our initial submission.”**

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.

The Organization raised a procedural issue as a threshold matter that must be addressed before considering the merits of the dispute. According to the on-property record, the claim was conferenced on April 21, 2015. Although the Carrier's submission contains a denial letter dated June 11, 2015, it is not in the Organization's submission. Instead, the Organization letter of September 10, 2015 contends the claim was never denied. The Carrier did not refute the Organization's default contention.

Rule 24b of the parties' Agreement reads, in pertinent part, as follows:

“*** When a claim or grievance is not allowed, the carrier's Highest Designated Labor Relations Officer will so notify, in writing, whoever listed the claim or grievance (employee or his union representative) within sixty (60) days after the date the claim or grievance was discussed of the reason therefor. When not so notified, the claim will be allowed.”

(Underscoring supplied)

Given the state of the record, the claim must be sustained as presented.

AWARD

Claim sustained.

ORDER

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 17th day of May 2019.