

Public Law Board No. 2630

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

The Chesapeake and Ohio Railway Company

STATEMENT
OF
CLAIM:

1. Carrier violated the August 21, 1954 National Agreement as set forth in Rule 50 of the Schedule Agreement when it failed to notify D. L. Tracy, trackman, that his claim, presented February 25, 1978, was disallowed within the required time.
2. Claimant D. L. Tracy be compensated for eight hours at the appropriate rate of pay for February 25, 1978.

FINDINGS:

Article V of the August 21, 1954 National Agreement which is incorporated by reference in Rule 50, provides that claims will be allowed as presented unless disallowed in writing within 60 days from the date the claim is filed. It is Petitioner's position that Carrier failed to comply with that time limit

in the present case.

The claim was filed on February 25, 1978 with the Manager of Engineering. According to Petitioner, no reply was received.

Carrier contends that the Manager of Engineering did reply to the claim by a letter of March 7, 1978 addressed to claimant at the proper address. A stamp on a purported copy of the letter that has been introduced in evidence by Carrier indicates that it was received by Carrier's Labor Relations Department on March 10, 1978.

This showing, uncontroverted as it is by proof to the contrary, is sufficient to support Carrier's contention that a timely response had been mailed to claimant. That he did not receive the reply letter is not attributable to any fault of Carrier so far as this record indicates. See Third Division Awards 21179 and 18881.

Accordingly a clear time limit violation has not been established. Since Petitioner has elected not to progress the claim upon its merits, it must accordingly be denied.

AWARD: Claim denied.

Adopted at Baltimore, Maryland, *August 15,* 1981.

Harold M. Weston

Harold M. Weston, Chairman

M. L. ...

W. C. ...