

PUBLIC LAW BOARD NO. 5418

Case No. 73

Award No. 73

PARTIES

to

DISPUTE:

Brotherhood of Maintenance of Way Employees

-and-

Pan Am Railways

STATEMENT OF CLAIM:

Claim for S. M. Chabot, for the following hours and dates, account junior employees called for snow duty:

March 16, 2007 - 13 ½ Overtime Hours

“ 17, “ - 13 “ “

“ 18, “ - 15 ½ “ “

FINDINGS: The record presents a procedural issue as a threshold matter. The Organization asserts the Carrier violated Article 25.3 of the Scheduled Agreement by failing to comply with the time limits specified therein.

Article 25.3 is quoted as follows:

“When a claim for compensation alleged to be due is not allowed, or should payment be made for less than the full amount claimant, **the claimant will so be informed in writing within sixty (60) days from the date the claim is received. If claimant is not so notified, the claim will be allowed,** but such payment will not validate any other such claim nor will such payment establish any precedent.” (Emphasis added)

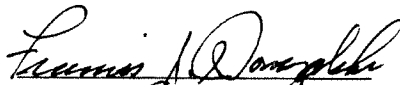
The record shows that the instant claims were handled in the following manner:

<u>Date Grievance Occurred</u>	<u>Hours Claimed</u>	<u>Date Grievance Filed</u>	<u>Carrier's Response</u>
3-16-2007	13 ½	4-14-2007	9-5-2007
3-17-2007	13	“	No Response
3-18-2007	15 ½	“	9-5-2007

Based on the undisputed record that shows the Carrier clearly violated the time limit provisions of Article 25.3, the Board deems this case to be procedurally defective. Therefore, based solely on the time limit violations, the claim is sustained.

The Carrier is directed to implement the Award within 30 days of receipt.

AWARD: The claim is sustained.


Francis J. Domzalski
Neutral Member


A. F. Lomanto
Carrier Member


B. A. Winter
Organization Member

Dated: 2-8-2009