

LABOR RELATIONS DEPARTMENT

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYES

vs.

NATIONAL RAILROAD PASSENGER
CORPORATION

Case No. 1

STATEMENT OF CLAIM

Claim of the Brotherhood (NEC-BMWE-SD-1132) that:

(a) The Carrier has violated the current Scheduled Agreement when on September 13, 1984, the Carrier refused to compensate Watchman R. V. Lattanzio for ten (10) hours at the applicable watchman's (trackman's) rate of pay.

(b) Claimant Lattanzio shall be properly compensated for ten (10) hours at the applicable rate of pay as a trackman for Carrier's failure to pay Claimant for work performed.

OPINION OF THE BOARD

Claimant R. V. Lattanzio, a Watchman based in Readville, Massachusetts, was denied payment for work he was assigned to perform on September 13, 1984. Carrier alleged that Claimant had not reported to his headquarters in Readville or to his assigned work site at Cove Interlocking

at the start of his assigned tour of duty on that date. He subsequently filed a claim for ten hours at the Trackman's rate of pay. The claim was denied. An appeal was filed and when the dispute was not resolved, it was submitted to this Board for a final determination.

Carrier argues that the claim was procedurally defective and thus should be dismissed. This Board has carefully reviewed the record of this case and while we share Carrier's concerns for the manner in which the claim was progressed on the property, we ultimately believe that it is in the best interest of all concerned for Claimant to be heard and for the case to be settled on its merits.

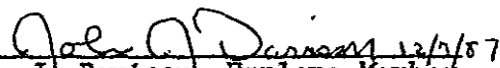
In this regard, Claimant maintained that a neutral witness, a night watchman of a construction company with headquarters at Cove, could certify that Claimant was working on the evening in question and that Claimant's Supervisor was not present that night. (Claimant's tour began at 3:30 P.M. and concluded at 1:30 A.M.) At no point, however, was this witness produced or the allegation supported in any way. At the same time, we find no reason advanced for why Track Supervisor A. Olsen would fabricate his story that he was at Cove, where a front-end loader was located, until 5:30 P.M. on September 13 and that Claimant never appeared to watch the equipment, as he had been instructed.

Given all the circumstances of this case, we must conclude that Carrier did not act inappropriately in denying the claim.

AWARD

Claim denied.


C. H. Gold, Neutral Chairman


J. J. Davison, Employee Member


C. E. Woodcock III, Carrier Member

Date of Approval