

PUBLIC LAW BOARD NO. 5418

Case No. 76

Award No. 76

PARTIES

to

DISPUTE:

Brotherhood of Maintenance of Way Employees

-and-

Pan Am Railways

STATEMENT OF CLAIM:

Claim of Harry H. Sagan, Jr. for 10 hours account
junior employees provided on track protection on
June 30, 2007 and July 1, 2007.

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 claimed, **the claimant will be so 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.”

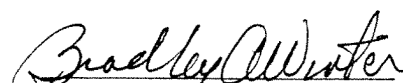
The record shows the claimant filed subject claim on July 18, 2007, and the Carrier never responded to the claim until November 5, 2007. Based on the undisputed record that shows the Carrier clearly violated the time limit provisions of Article 25.3, the Board deems this case to be procedurally defective. Therefore, based solely on the time limit violation, the claim is sustained.

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

AWARD: The claim is sustained.


A. F. Lomanto
Carrier Member


Francis J. Domzalski
Neutral Member


B. A. Winter
Organization Member

Dated: 2-8-2009