

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 5564

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES)
and) Case No. 24
NORTHEAST ILLINOIS REGIONAL COMMUTER)
RAILROAD CORPORATION) Award No. 18
_____)

Martin H. Malin, Chairman & Neutral Member
R. C. Robinson, Employee Member
J. P. Finn, Carrier Member

Hearing Date: January 7, 2009

STATEMENT OF CLAIM:

- (1) The claim as presented by employee P. Sorensen on October 20, 2004 to Chief Engineering Officer W. K. Tupper shall be allowed as presented because the claim was not disallowed by him in accordance with Rule 33 (System File C-57-04-C080-20-M/08-10-518).

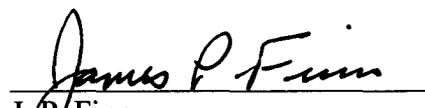
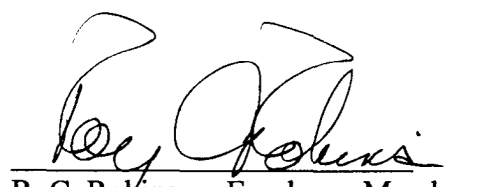
FINDINGS:

Public Law Board No. 5565 upon the whole record and all of the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

The sole issue posed by this claim is procedural. By letter dated October 20, 2004, Claimant P. Sorensen filed a claim on behalf of himself and six other employees alleging that Carrier violated the Agreement when it contracted out brick paving work at the National Street station in Elgin, Illinois. By letter dated December 16, 2004, Carrier's Chief Engineer denied the claim. However, Claimant Sorensen never received the denial because it was not addressed to his then current address. The Organization contends that Carrier never properly denied the claim and, consequently, the claim must be sustained as presented. However, the record reveals that Carrier mailed its denial to the last address it had on record for Claimant Sorensen. Claimant had the responsibility to update Carrier with respect to any change of address. Indeed, we note that Claimant failed to provide a return address in his claim letter of October 20, 2004. By mailing its denial to the last address that Carrier had on record for Claimant, Carrier properly denied the claim.

AWARD

Claim denied.


Martin H. Malin, Chairman
J. P. Finn
Carrier Member
R. C. Robinson, Employee Member
Employee Member

Dated at Chicago, Illinois, April 28, 2009