

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 7163

Brotherhood of Maintenance of Way)	
)	
Employees Division, IBT Rail Conference)	Case No. 290
)	Award No. 290
and)	
)	
CSX Transportation, Inc.)	

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The claim shall be allowed as presented because said claim was not disallowed by the Carrier’s highest designated officer (HDO) within sixty (60) days after the claim was discussed per Rule 24(b) (System File G27706614/2014-171011 UPS).
2. As a consequence of the violations referred to in Parts 1 and/or 2 above, Claimants J. Taylor and M. Abel shall be paid twelve (12) hours overtime each at their respective overtime rate of pay.”

FINDINGS:

The Organization argues that the initial claim submitted June 12, 2014 was not timely denied by the Carrier's highest designated officer within sixty (60) days as required by the Controlling Agreement. The Organization notes that the pertinent part of Rule 24(b) states: "Designated Labor Relations Officer will so notify, in writing, whoever listed the claim or grievance (employee or his Union Representative) within sixty (60) days after the date the claim or grievance was discussed of the reason therefore. When not so notified, the claim will be allowed." As the Carrier failed to deny the appeal within sixty (60) days of the conference as required by Rule 24(b) the Board should sustain the claim as presented without regards to the merits since that is the explicit remedy called for by Rule 24(b).

The Carrier responds that the Organization's appeal letter was incorrectly dated June 10, 2014, two (2) days before the actual filing of the claim. In addition, this claim is a duplicate claim and should be dismissed and the claim was properly disallowed in accordance with Rule 24(b). The Carrier further notes that their internal tracking systems indicates that the denial on this claim was issued the same date as others in which the Organization has raised no objections. Finally, the

claim is a duplicate and should be dismissed therefore any alleged technical violation of Rule 24(b) is irrelevant.

The Board has carefully reviewed the record before us to include the multitude of awards submitted by the parties to support their positions. The Board reviewed the handling of this claim on the property and found that the Organization's assertions in their letter of March 26, 2015 were significant as were the Carrier's failure to respond to the Organization's statement.

In this case the Organization has in the record before us met their burden of proof. The claim will be sustained. This decision is based strictly on procedural issues and does not address the merits of the initial claim filed.

AWARD:

Case sustained



Don A. Hampton
Neutral Chairman and Referee



Katrina Donovan
Carrier Member



Andrew M. Mulford
Employee Member

DATED: July 13, 2018