

PUBLIC LAW BOARD NO. 7599

AWARD NO. 144

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES)
DIVISION - IBT RAIL CONFERENCE)
)
) EX PARTE, CASE 144
)
)
GRAND TRUNK WESTERN RAILROAD COMPANY)

ARBITRATOR: Gerald E. Wallin

DECISION: Claim sustained

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier hired and assigned outside forces (Torres Contractors) to perform scope covered Maintenance of Way work (providing on-track work protection) located at Mile Post 223, Chicago Division, Flint Subdivision, in Lansing, Michigan on August 8, 2022 and continuing, which is work ordinarily and customarily performed by the Claimant and due to him under the Agreement (System File Weston105230PG091322/GTW-BMWED-2022-00007 GTW).
2. The Agreement was further violated when the Carrier failed to furnish the General Chairman with advance written notice of its intent to contract out the claimed work in accordance with the Scope Rule and Appendix N of the Agreement.
3. The claim, as appealed under letter dated January 2, 2023, shall be allowed as presented because the Carrier defaulted on the claim when it failed to hold a timely appeal meeting as required by Rule 24(b).
4. The claim, as appealed under letter dated January 2, 2023, shall be allowed as presented because the Carrier defaulted on the claim when it failed to notify, in writing, whoever listed the claim or grievance (employee or union representative) of the reasons the claim or grievance was not allowed within sixty (60) days after the date the claim or grievance was discussed as required by Rule 24(b).
5. As a consequence of the violations referred to in Parts 1 and/or 2 and/or 3 and/or 4 above, Claimant S. Weston shall now be compensated all hours at his respected hourly rate of pay commencing on August 8, 2022 and continuing."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are the Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.


The Organization contends that it and the Claimants are entitled to a default decision in their favor per Rule 24 of the Agreement.


Rule 24 dictates the process for handling claims on the property. The rule specifies the steps that must be followed and the timing of those steps. If the time limit for each step is not followed, the rule provides that the claim must be allowed.

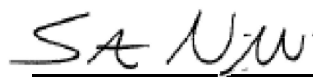
The instant claim was filed on September 13, 2022. The reply by the Carrier was timely as was the Organization's January 2, 2023 appeal. Rule 24(b) requires the Carrier to hold a meeting within 60-days to discuss the claim. The meeting was not held until June 12, 2023. Thereafter, the rule calls for the Carrier to notify within 60-days of the reasons the claim was not allowed. The rule says, "When not so notified, the claim will be allowed." On September 11, 2023, the Organization notified the Carrier that no post-conference letter was received as of the date.

The record does not show that the Carrier complied with the time limit of Rule 24. Therefore, the Claim must be allowed without reaching the merits.

AWARD: The Claim is sustained. The Carrier is directed to comply with this Award within thirty (30) days of the date shown below.


Gerald E. Wallin, Chairman
and Neutral Member


John Schlismann
Organization Member

 **DISSENTING**
Steve Napierkowski
Carrier Member

DATED: JANUARY 10, 2025