

PUBLIC LAW BOARD NO. 7599

AWARD NO. 146

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES)
DIVISION - IBT RAIL CONFERENCE)
)
) EX PARTE, CASE 146
)
)
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 assigned Track Inspector W. Kaminski to perform overtime work consisting of cutting and removing several trees on the Chicago Division, South Bend Subdivision in Griffith, Indiana, at Mile Post 36.56 on September 5 and 6, 2022, which is work historically and customarily performed by the local section crew (i.e., the Claimants) (System File Cuadra170394PG091322/GTW-BMWED-2022-00003 GTW).
2. 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).
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 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).
4. As a consequence of the violations referred to in Parts 1 and/or 2 and/or 3 above, Claimants B. Cuadra, R. Klaybor and E. McQueary shall now be compensated eight (8) hours at their respected time and one-half hourly rate of pay for September 5 and 6, 2022."

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 claim was filed on September 13, 2022. The Carrier denied it on November 10, 2022. On January 2, 2023 the Organization's appeal asked the Carrier to advise when the conference would be held. Rule 24(b) provides that the meeting is to be held within 60 days of the Carrier's receipt of the appeal. It was not conducted until June 12, 2023.


On September 11, 2023, the Organization wrote to the Carrier that it had not received the required post-conference letter per Rule 24(b) within the 60-day time limit specified by the rule. On November 8, 2023, the Organization notified the Carrier that it was in default. The letter went on to offer the Carrier an extension in which to reply. According to the record, neither of the default assertions in these letters was refuted by the Carrier.

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 withing 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