

PUBLIC LAW BOARD NO. 7599

AWARD NO. 147

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES)
DIVISION - IBT RAIL CONFERENCE)
)
) EX PARTE, CASE 147
)
)
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 fixed headquarters employes on the Pontiac Subdivision to perform overtime work associated with the removal of black-top and application of cold patch at Martin Railroad Crossing on the Detroit Division, Detroit Sub-Division in Detroit, Michigan on February 20, 2022, which is work ordinarily and customarily performed by the Claimants and due to them under the Agreement (System File Horde175055PG041722/GTW-BMWED-2022-00012 GTW).
2. The claim, as presented under letter dated April 17, 2022, shall be allowed as presented because the Carrier defaulted on the claim when it failed to render a decision, in writing, to whoever listed the claim or grievance (employee or union representative) within sixty (60) days from the date same is filed as required by Rule 24(a).
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, Claimants T. Horde and D. Sell shall now each be compensated for seven (7) hours at their time and one-half rate of pay at their respected hourly rate for February 20, 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 April 17, 2022. The Carrier did not deny it until November 7, 2022. Rule 24(a) imposes a 60-day time for the Carrier to do so. If not so notified, the claim will be allowed. Despite this, the claim was discussed in conference on 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.

The record does not show that the Carrier complied with two of the time limits 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