

PUBLIC LAW BOARD NO. 7599

AWARD NO. 149

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES)
DIVISION - IBT RAIL CONFERENCE)
)
) EX PARTE, CASE 149
)
)
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 failed to offer and assign Mr. A. Conine to perform overtime work associated with a run through switch on February 8, 2022, located at Chicago Division, Battle Creek Sub-Division, in the Battle Creek Michigan Yard and instead assigned junior employe A. Chantrenne thereto (System File Conine185287PG031122/GTW-BMWED-2022-00009 GTW).
2. The claim, as presented under letter dated March 11, 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 (employe 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 February 7, 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 February 7, 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 (employe 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 A. Conine shall now be compensated for twelve (12) hours at the time and one-half rate of pay at his respected hourly trackman rate for February 8, 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 Claimant 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 a step is not followed, the rule provides that the claim must be allowed.

The claim was filed on March 11, 2022. The Carrier did not deny it until December 14 of that year. Rule 24(a) imposes a 60-day time for the Carrier to do so. If not so notified, the claim will be allowed. Nonetheless, the Organization sent an appeal of the untimely denial. 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. On November 8, 2023, the Organization again notified the Carrier that no post-conference letter had yet been received. The Carrier did not refute the assertions that it was in default.

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