

SPECIAL BOARD OF ADJUSTMENT NO. 170

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
versus
ILLINOIS CENTRAL RAILROAD COMPANY

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

(a) The Carrier violated the Clerks' Agreement at the District Stores Department, Centralia, Illinois, when on March 7, 1955, it failed and refused to assign the handling of steel to and from the fabricating machines at the Car Shop to employees subject to the terms of the Clerks' Agreement.

(b) The senior available Crane Operator be compensated for wage loss sustained representing a day's pay at pro rata rate retroactive to March 7, 1955, and forward to date the violation is corrected. (Pro rata rate of position \$15.45 per day.)

(c) The two senior available Cranemen be compensated for wage loss sustained representing a day's pay for each at the pro rata rate retroactive to March 7, 1955, and forward to date the violation is corrected. (Pro rata rate of position \$12.52 per day.)

NOTE: Reparation to be determined by joint check of Carrier's payroll and other records.

OPINION: Carrier builds and repairs freight cars at its Centralia Car Shop. Extensive storehouse facilities are maintained to receive, store, and disburse to the Car Department the materials needed in building and repairing freight cars.

Employees in the Stores Department who receive, handle, and disburse materials are represented by the Brotherhood of Railway and Steamship Clerks. Employees who build and repair freight cars in the Car Shop are represented by the various shop craft organizations comprising System Federation No. 99.

At Centralia there is an overhead traveling crane running on overhead rails the entire length of the Car Shop, approximately 500 feet in length and also extends approximately 300 feet north of the Car Shop building. Steel sheets with other steel materials for use or for reshipping to other locations are unloaded from cars by cranes and stored in an area known as the Steel Field. The unloading of this material is performed by the Stores Department employees who are subject to the Scope of the Clerks' Agreement.

It appears to be the function of the Stores Department to make materials available as needed at a point where they are accessible to employees of the

Car Department. Certain heavy materials needed in carload lots are loaded into material cars by Stores Department employes and switched into the Car Shop, where they are unloaded by means of an overhead electric crane operated by the Shop Craft employes. Other materials stocked by the Stores Department on skids are moved by Stores Department employes operating lift trucks to a point underneath the Car Shop overhead cranes, from where they are moved by the overhead crane to the point within the Car Shop.

It appears that when the Car Shop was enlarged in 1945 for the purpose of building freight cars an overhead craneway and two electric cranes were installed for the handling of heavy materials. The cranes handle materials used in the process of manufacture. They handle no material exclusively for storage.

Claimant employes perform work that is restricted to the Stores Department.

The Carrier urges that the Board has no jurisdiction in this dispute in the absence of notice of hearing being given to the Electrical Workers' and Carmen's Organizations.

We note that the Electrical Workers' and Carmen's Organizations have not sought intervention in this dispute. We hold that decision on this issue is controlled by Award No. 6, Special Board of Adjustment No. 170, to which reference is made.

It is also urged by the Employes that Claimants are entitled to an affirmative award for the reason that Carrier's Manager of Stores Godley failed to deny the claim in accordance with the provisions of Article V, Section 1(a) of the August 21, 1954, Agreement:

"ARTICLE V - CARRIERS' PROPOSAL NO. 7

"Establish a rule or amend existing rules so as to provide time limits for presenting and progressing claims or grievances.

"This proposal is disposed of by adoption of the following:

"1. All claims or grievances arising on or after January 1, 1955 shall be handled as follows:

(a) All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the carrier shall, within 60 days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons

for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances."

The point relied upon by Employees is that the Carrier through its Agent Godley failed to notify Claimants within 60 days its reasons for disallowing the claim. It appears that on July 5, 1955, the claim was appealed to Godley and was denied by him on December 16, 1955.

We are of the opinion that the 60-day period mentioned in the above agreement is mandatory and not directory, but such provision does not come into existence unless and until a valid claim is filed.

It is urged by the Carrier that the instant claim was not properly presented in that a claim must identify "the employee" on behalf of whom it is made. It does not appear that this issue had been presented and determined by any Division for the reason of the recent enactment of the agreement; however, it has generally been held by Special Adjustment Boards and by the First Division of the Adjustment Board that claims must be made by some particular employee. One of the reasons for naming the employee is to avoid a dispute as to which particular employee is entitled to the award.

We hold in the case at bar for Employees to recover an award the employee must be named.

It is urged on behalf of the Employees the issue of the named employee was not raised while the claim was being handled on the property and was first mentioned in the last rebuttal brief filed by the Carrier. Under the facts involved in this claim, it becomes the duty of the employee to present his or her claim within 60 days from the date of its occurrence. Failure to properly present a claim does not bar the Carrier from raising this issue at any time. Moreover the merits of the claims herein involved are in harmony with the decision made.

FINDINGS: The Special Board of Adjustment No. 170 after giving to the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act;

That the Special Board of Adjustment No. 170 has jurisdiction over the dispute involved herein; and

That the agreement was not violated.

AWARD: Claims denied.

SPECIAL BOARD OF ADJUSTMENT NO. 170

/s/ Edw. M. Sharpe

Edward M. Sharpe -- Chairman

/s/ E. H. Hallmann

A. B. Simmons -- Employee Member

E. H. Hallmann -- Carrier Member

Chicago, Illinois
January 28, 1958