

NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISION

Award No. 24433  
Docket No. 44132  
95-1-94-1-C-4623

The First Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (Weyman K. King  
(  
(CSX Transportation, Inc. (former  
( Louisville and Nashville Railroad Company)

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my (on behalf of B.G. McGuire, R.D. Newsome, J.M. Taylor and others) intention to file an ExParte Submission within thirty (30) days covering and unadjusted dispute between (us) and the CSXT, involving the question of Seniority:

The National Agreement of January 27, 1972 Article X (Combining road and yard seniority). Implemented effected [sic] May 1, 1973.

The Memphis Line-Paducah-Memphis Conductor Seniority Roster - Top over Bottom Road Conductor-Leewood Yard Foremen Memphis. Correction desired.

The carrier L&N - CSXT did not keep or furnish proper records. Have not taken a position as to who did and who did not complete the required L&N 227 Form to earn conductor seniority. Did not maintain proper or correct seniority rosters to conform to their own records [sic].

Due to the possibility of someone being forced away from home due to work, and seniroyty [sic] of many being restricted we request this matter be considered promptly. An oral hearing will be requested."

FINDINGS:

The First Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The Carrier has raised several procedural objections to this claim. This Board need only to deal with one of those. The Carrier argues this Board lacks jurisdiction because the Claimants failed to conference this claim with the highest designated officer of the Carrier. Section 2 Second of Railway Labor Act states:

"All Disputes between a carrier or carriers and its or their employes shall be considered, and if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carrier or carriers and by the employes thereof interested in the dispute."

The record is void of any evidence of a conference. There are numerous awards that mandate that all claims must be discussed in conference prior to being listed to the Board.

First Division Award 24159 held as follows:

"...Additionally, the burden of proof has not been met to demonstrate that the usual handling, required by Section 2, Second and Section 3, First (i) of the Railway Labor Act, as amended was followed in the case at bar. The Claimant, who handled his own case, has failed to prove that the procedural requirements of the Act were met. There is insufficient proof that a conference was held on the property. The submitted intra organizational correspondence does not carry sufficient weight to carry the burden of proof (First Division Awards 22718, 22428, 22101).

Accordingly, it is not possible for this Board to reach the merits of the case. Based upon the record, the Claim is procedurally defective and must be dismissed."

AWARD

Claim dismissed.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of First Division

Dated at Chicago, Illinois, this 20th day of April 1995.