

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That in violation of the governing Agreement, the Burlington Northern Railroad arbitrarily withheld a portion of the mileage expense due Communications Crew Lineman L. R. Weinhoff for the authorized use of his personal automobile.

2. In further violation of the Agreement, the Carrier officer to whom the claim was properly addressed in accord with the standing instructions of the Carrier, ignored the claim and all succeeding correspondence.

3. That accordingly, the Burlington Northern Railroad should be instructed to compensate Mr. Weinhoff in the amount of \$196.88 which is the amount owed him for the months of January and February 1988.

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

Before considering the merits of this matter we must first deal with a time limit issue raised by the Organization. It contends that a Carrier officer other than the officer with whom the Claim was filed issued the original denial. In support of payment on the basis of a time limit violation the Organization relies on Third Division Award 27501. In that Award a Signalman's claim was sustained because the Supervisor with whom the claim was filed did not issue the denial.

We have examined the time limit rule before the Division in Award 27501 and note that it specifically required:

"Should any such grievance or claim be denied, the Supervisor shall, within sixty (60) calendar days from date same is filed, notify whoever filed the grievance or claim (employee or his representative) in writing of such denial."

In sustaining the matter on time limits the Division did so on the basis of:

"...the specificity of the rule [in] this case [as] distinguished from those relied on by the Carrier since it is apparent the rules there only required denial by the 'Carrier.'

The time limit rule under review here provides:

Should any such claim or grievance be disallowed, the Carrier shall, within sixty (60) days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reason for such disallowance." (Underscoring added)

A number of Awards have concluded that the term "Carrier," as found in the context of this style time limit rule, does not require that the officer with whom the claim has been filed make the denial. These Awards conclude that claims are properly denied, if done so timely, by any Carrier officer. In this regard see Third Division Award 27590.

The fact that the instant Claim was denied by an officer of the Carrier other than the officer with whom it was initially filed did not violate the time limit rule.

On the merits of the matter Claimant is seeking mileage allowances between his work location and his headquarters point on dates when he only traveled between the work location and his home which was less distance than his headquarters point. He was allowed actual mileage between the work location and his home.

Careful study of the Agreement does not support a conclusion that Claimant is entitled to a mileage allowance for more miles than those actually traveled on the several dates within the period covered by his Claim. There is no question that had he returned to his headquarters point he would be entitled to recovery of such mileage, up to the maximum daily or weekend miles provided in the Rule. However, he elected for his own reasons, to terminate his travels short of his headquarters location. The language of the Rule does not provide for payment of more miles than those actually traveled.

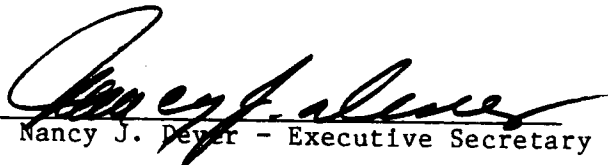
The Claim is without merit and will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of November 1990.