

NATIONAL RAILROAD ADJUSTMENT BOARD

Form 1

THIRD DIVISION

Award No. 30132
Docket No. MS-29179
94-3-90-3-28

The Third Division consisted of the regular members and in addition Referee Gil Vernon when award was rendered.

PARTIES TO DISPUTE: (Timothy C. Reeder
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(CSX Transportation, Inc. (former B&O)

STATEMENT OF CLAIM:

"Now come the Petitioners and state that the Carrier's officers performed work at Erie Jct., Lima, Ohio, covered by the Scope Rule of the Agreement between the Petitioners and the Carrier. Said work performed by Carrier officers was in place of 2,376 hours of authorized force strength never filled during the duration of Carrier A.F.E. project #59918. Carrier should be required to pay Petitioners on a pro rata basis Signalmen rate of \$14.13 per hour for the position hours not filled by the Carrier the amount of \$33,572.88."

FINDINGS:

The Third 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 employe 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.

The record reflects that the claim placed before the Board by the Petitioner, an individual, was originally filed by the local Chairman on October 22, 1989. It was filed on behalf of several employees, including the Petitioner. The claim was denied on the basis it was untimely and on the basis of the merits. The matter was appealed by the General Chairman and conferenced April 5, 1989. The conference was confirmed October 17, 1989. On January 4, 1990, the Carrier wrote the following letter to the General Chairman:

"This refers to claim in behalf of all signal employees from Local #94 on the Toledo-Indianapolis Seniority District, particularly T.C. Reeder, W.E. Baudendistal,

S.A. King, T.B. Able, G.M. Kerrigan, L.R. Kimmel, G.A. Ammerman, C.P. Heitzer, T.J. Rich, P.M. Bushle, J.J. Robinson and W.L. Duncan, who are working or have had a part of Force 7PB7, for 'any additional time on a prorated basis equal to man hours worked', for account Carrier officers G.J. Bowerman, R.N. Withrow, E.G. Peterson, R.W. Smith, J.L. Baker and T.D. Ison allegedly performing 'signal work' between February 12, 1988 through August 26, 1988.

The 9 month time limit for further handling of this claim has expired; therefore, we are closing our file."

The Petitioner then filed a notice with the Board on January 13, 1990.

It is readily apparent that the claim must be dismissed. In addition to serious questions as to whether the claim was filed in a timely manner in the first instance, there is the matter of the matter not being appealed to the Board within nine months of the denial by the Assistant to the Vice President as required by Rule 54. The nine month time limit expired December 2, 1989. The rules of the Board require that for us to have jurisdiction, the claim must have been handled in accordance with the Agreement.

The Board observes, however, that even if we had addressed the merits, the record lacks sufficient evidence to sustain the Petitioner's claim. In addition, we observe he only has standing to progress a claim on his own behalf.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin / lw
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 4th day of April 1994.