

Referee Irwin M. Lieberman

PARTIES Railroad Yardmasters of America

TO

DISPUTE: The Alton & Southern Railway Company

STATEMENT OF CLAIM: Claim and request of Railroad Yardmasters of America that:

Yardmaster J. Champion be allowed an additional 8 hours at pro-rata rate for August 7 and August 8, 1976 account of violation of the seniority rule of the working Agreement.

OPINION OF BOARD: At the outset both parties raise the question of whether or not a conference was held in this dispute, with Petitioner alleging that a conference was held with the Superintendent and that Carrier failed to offer a conference at the highest level. The sequence of events herein is important:

1. Time claims filed on August 7th and 8th, 1976.
2. Denial by Superintendent by letter dated August 10th.
3. Petitioner requested a conference by letter dated August 11th.
4. Conference held (and confirmed) with Superintendent, August 13th.
5. Petitioner wrote highest officer Sept. 7, 1976 appealing and requesting conference.
6. Denial of appeal by Carrier's highest officer, by letter dated October 27, 1976.
7. Petitioner, by letter of November 1, 1976 rejected Carrier position, indicating further appeal.. Also referred to lack of conference.
8. Carrier wrote by letter of November 8th offering conference.
9. By letter of November 9th, Petitioner rejected Carrier's offer of conference stating that in view of prior tacit refusal to offer conference, material forwarded for presentation before N.R.A.B. and a "meeting now to discuss the claims would not be proper".

10. By letter dated November 20, 1976 Petitioner alleged for first time Carrier violation of Rules 2 (e), 6(g), 5 and 7.
11. By letter of December 2, 1976 Carrier, inter alia, renewed offer of conference.
12. Matter submitted to N.R.A.B. February 25, 1977.

The Railway Labor Act requires that a conference be held on the property in an effort to settle a dispute before it may be appealed to this Board for a decision. The fact that such a conference must be held at the highest level, and not the lowest, was affirmed by Third Division Award 12499. Furthermore, it is apparent that such conference does not have to precede the initial rejection of an appeal by the Carrier's highest officer.

It is evident that the Courts have held that this Board may not consider a claim unless the requirements of the Railway Labor Act are satisfied (Third Division Award 15617). There have been a host of Awards holding that a conference on the property is a mandatory requisite to assertion of jurisdiction by the Board. Since that requirement was not met in this dispute, the Claim must be dismissed for lack of jurisdiction.

FINDINGS:

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

The carrier and the 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.

The parties to said dispute waived right of appearance at hearing, but were granted privilege of appearing before the Division with Referee sitting as a member thereof, to present oral argument.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:

Executive Secretary
National Railroad Adjustment Board

By: 
Assistant Executive Secretary

Dated at Chicago, Illinois, this 4th day of August 1977