

PUBLIC LAW BOARD NO. 5902

**PARTIES) UNITED TRANSPORTATION UNION-YARDMASTERS DEPT.
TO)
DISPUTE) NORFOLK SOUTHERN RAILWAY COMPANY**

STATEMENT OF CLAIM:

Claims of Yardmaster R. C. Pendley, made to Mr. Yates, June 3, 1997. As required per Yardmasters' Agreement these claims must either be agreed to or denied within sixty (60) days. As of this date, August 7, 1997, I have no communications from Mr. Yates in regards to these claims. Due to the fact that Mr. Yates did not respond within sixty (60) day period according to the Yardmasters' Agreement, these claims are valid. (File: UM-AB-97-3)

FINDINGS:

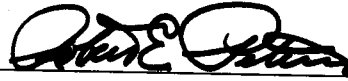
The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The dispute stems from a claim that was filed on behalf of the Claimant involving the same issue as in Case No. 10 (Award No. 10) before this Board concerning Yardmaster work on the second shift at the 27th Street Yard in Birmingham, Alabama, except that the instant claim has been advanced in a contention that it be allowed account an alleged failure of the Carrier to have denied the claim within the proscribed 60-day time limits of Rule 18(A).

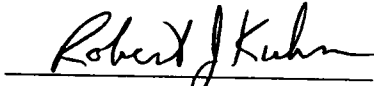
In study of the record the Board is satisfied that a denial of the claim was made in full compliance with the time limitations of Rule 18 of the Agreement. When the issue first arose on the property the General Manager made the following statement in a letter of August 22, 1997: "The Superintendent did decline your appeal in a timely fashion and attached is a copy of the declination." In this latter regard, the Carrier presented into the record copy of the claim as received in the Superintendent's office under date of June 6, 1997, with a stamped and signed notice of declination of the claim that was dated July 1, 1997. The claim was thereafter appealed in a contention that the Organization had never received the notice of declination, albeit nothing of record shows or suggests why it should be held that this particular denial was made in other than the then accepted method by use of the regular mail services of the United States Postal Service.

AWARD:

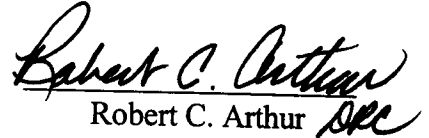
Claim denied.



Robert E. Peterson
Chair & Neutral Member



Robert J. Kuhn
Carrier Member



Robert C. Arthur
Organization Member

Norfolk, VA

Dated: August 18, 1999