

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
FIRST DIVISION**

Award No. 24920
Docket No. 44483
98 1 95-1-G-1689

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

PARTIES TO DISPUTE: (United Transportation Union
(Grand Trunk Western Railroad Incorporated

STATEMENT OF CLAIM:

“DTSL Sub-division claim of Trainman Tom Hughes for eight (8) hours Deadhead account forced from Lang Trainman’s extra Board to Train E-5 (500) at Edison Yard, and eight hours Deadhead account forced from Edison Yard to Lang Yard. Docket 452 Claims 6 and 7.”

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 Organization is not able to show that the Agreement rules and arguments that it makes to this Board in support of the claim were in fact raised or explored on the property in the manner contemplated for the handling of disputes by the Railway Labor Act and the Rule of Procedure as set out in Circular No. 1 of this Board.

Although there was a claims conference on the property, the Carrier wrote a post-conference letter to the Organization in which it stated that it still had no knowledge as to the basis for the claim or in what manner support existed for such a claim. The Organization did not respond to such letter, and it was only when the dispute was being presented to the Board that the Organization set forth its argument and the rules that allegedly have been violated or otherwise support the claim. As many times held by Awards of the Board, we are not empowered to hear cases de novo. The moving part in a dispute has the obligation to have cited a specific rule(s) relied upon during the handling of the claim on the property and cannot wait until the dispute is before the Board to make a belated proffer of rules or argument that the other party did not have the opportunity to defend against during the handling of the claim on the property.

It being evident that no rule support or other probative documentation was offered in presentation and handling of the claim on the property, the Board has no alternative but to find an affirmative award is not warranted.

AWARD

Claim denied.

ORDER

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 30th day of June 1998.