

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

Claim in behalf of Machinist P. R. Witt, under Rule 32 (d) for all time lost at the pro rata rate of pay from May 14, 1975, for all overtime for which he would have been available at the punitive rate of pay, plus the prime rate of interest until the claim is settled.

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 employees 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 Carrier contended on the property (See General Manager Love's letter of July 9, 1975 and Chief Mechanical Officer Tutko's letter of July 30, 1975) that the instant claim was barred since it was not appealed to Superintendent Tucker as required by Rule 31(a) and the Note to Rule 31. We find therefore that this contention was properly raised on the property and is therefore properly before the Board. We reject the Organization's contention that the Carrier had abandoned the Rule 31 improper handling contention; and find that the cases cited by the Organization are inapposite.

In Second Division Award No. 7216, involving the very same parties and similar circumstances we held:

"This claim is barred under the provisions of Rule 31 (a) which required that all claims must be presented in writing on behalf of the involved employee to the officer of the Carrier authorized to receive the same within sixty (60) days from the date of the occurrence on which the claim or grievance is based. The record in this dispute discloses that the claim was not filed with the officer authorized to receive the same

"within sixty days, and therefore, this Board has no jurisdiction to consider this case on its merits. (See Second Division Awards Nos. 7088, 7026, 6992, 6981, 6980 and many others.) The Organization relies on the fact that the claim was not filed with the Superintendent because the Superintendent rendered the decision imposing the discipline in this case. In order to confer jurisdiction upon this Board for the purpose of appeal, it was necessary that the mandatory procedural requirements be met."

We are therefore compelled to dismiss this Claim.

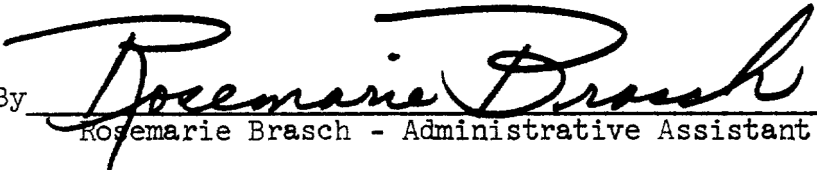
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of January, 1978.