

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 7843
Docket No. 7743
'2-N&W-CM-'79

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: (System Federation No. 16, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That carrier has violated the current working agreement by allowing H. W. Neal, Jr. a position on the Carmen's (Car Repairers) Seniority Roster at Bellevue, Ohio, with seniority date of March 24, 1975.
2. That H. W. Neal, Jr. name be placed correctly on the Carmen's (Car Repairers) Seniority Roster at Bellevue, Ohio.

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 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.

This Board has always recognized the important status attached to employe seniority and accordingly has painstakingly analyzed the record to determine the bona fides of the instant seniority claim.

Based upon this careful assessment, we do not find any specific proof that H. W. Neal's seniority was anything but as shown in the record. The organization was under a more compelling obligation, given the significance of this type of claim, to prove that the date on the seniority roster was incorrect and alternatively, demonstrate beyond all question the precise and correct date. It did neither. Its arguments were in effect, tantamount to mere assertions, which this Board has consistently held are insufficient to sustain a claim. (See, for example, Second Division Award 6865).

Moreover, and more importantly, the posting of the seniority roster on or about February 2, 1976 was a one time action, which occurred on a specific date and therefore subject to the time limit specifications of Article V 1(a) of the August 21, 1954 Agreement which reads in pertinent part:

"All claims or grievances must be presented in writing by or on behalf of the employees involved, to the officer of the Carrier authorized to receive same within 60 days from the date of the occurrence on which the claim or grievance is based."

We do not construe this grievance to be a continuous claim.

In Second Division Award 6987, where we articulated the definitional application of a non-continuous claim, we held that:

"This Board has long held that a claim is not a continuous one where it is based on a specific act which occurred on a specific date. While a continuing liability may result, it is settled beyond question that this does not create a continuing claim."

We further upheld this principle in an analogous seniority date adjudication, where we ruled, "we find the alleged grievance is based on a specific act, that of establishing a specific seniority date Carman Contos. It, therefore, does not constitute a continuous claim". (See Second Division Award 7571).

These unmistakable holdings are clearly on point with the facts and circumstances herein and, as such, dispositive of this dispute.

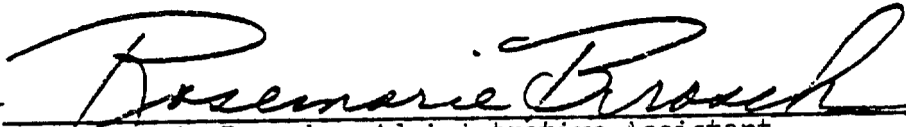
We cannot waive or modify the binding time limits voluntarily established by the parties, so we must dismiss the claim.

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 14th day of February, 1979.