

Parties to Dispute: { Brotherhood Railway Carmen of the United States and
Canada
{ Chesapeake and Ohio Railway Company

1. Claim that Carman-Tentative, H. E. Fannin's name was improperly placed on the January 1, 1978 carmen-tentative seniority roster with a date of May 14, 1977 instead of March 10, 1950, in violation of Rules 27 and 31 of the Shop Crafts Agreement and Carmen's Special Rule 177.
2. Accordingly, Carman-tentative, H. E. Fannin's name should be restored to the Carmen-tentative Seniority Roster at Russell Terminal with the original date of March 10, 1950.

The Carrier raises a serious procedural objection, pointing out that the claim was not filed in accordance with the time limit provisions in the contract. In so doing, it relies on Rule 35 of the controlling Agreement, which reads in pertinent part:

"All claims or grievances must be presented in writing by or on behalf of the employee 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..."

The record reveals that Claimant returned to service on May 14, 1977 and in June of 1977 had been made aware of his new seniority status by the Foreman. Unfortunately, he waited until March 18, 1978, to inform his Organization of the problem and the grievance was filed on that date, over eight months after the occurrence.

The contract is an agreement between the parties and this Board is constrained by law and practice from any attempt to modify its terms.

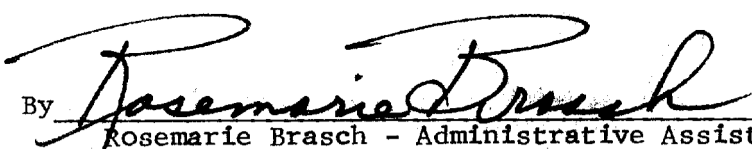
Clearly the claim was not filed within the time provided and therefore cannot be considered by the Board.

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 4th day of March, 1981.