

The Second Division consisted of the regular members and in addition Referee T. Page Sharp when award was rendered.

Parties to Dispute: (Rudolph Williams
(Washington Terminal Company

Dispute: Claim of Employees:

Petitioner seeks to be restored to his position as coach cleaner for the Washington Terminal Company which is wholly owned by AMTRAK.

Findings:

The Second 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 employees 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.

Claimant has not worked for Carrier since July 24, 1980. After this he marked off as sick. He had been in contact with the Medical Department of Carrier on August 14, 1980. On February 2, 1981 he was sent a form to be filled in by his physician which included a note that stated:

"Mr. Williams: Our last contact with you was 8-14-80.
Please have this form sent back to me as soon as possible.
NOTE: Prolonged disability you are required to furnish
proof on a monthly basis."

This note was sent return receipt requested mail and was returned marked "Refused." The Carrier then sent him a notice that because of his conduct of absenting himself for a period of more than five unexcused days, he was being dropped from the Seniority Roster.

The Carrier heard nothing further from the Claimant until he filed with this Board on April 11, 1983. It takes the position that the claim is time barred by the Agreement.

Claimant cannot be held not to have received notice of the Carrier's warning and actions. Notice to the last registered address of an employee is notice to the employee. The Rule from the Agreement, Article V (b) states:

"(b) If a disallowed claim or grievance is to be appealed, such appeal must be in writing and must be taken within 60 days from receipt of notice of disallowance, and the representative of the Carrier shall be notified in writing within that time of the rejection of his decision."

As a consequence of his neglect no conference was held on the property and Claimant made no attempt to settle his dispute, if any. He cannot now come before this Board after this large passage of time and have this Board hear his complaint. The claim is time barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of December 1985.