

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(Carl F. Gladish
Parties to Dispute: (
(New Jersey Transit Rail Operation, Inc.

Dispute: Claim of Employees:

The basis of the complaint of these members who are all passenger service employees is that with the advent of the New Jersey Transit Operation taking over passenger service operations effectively January 1, 1983, as carmen employees formally assigned to freight service with Conrail were dovetailed into the current seniority roster.

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 employes 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.

On June 16, 1983, a number of Carmen and the Claimant wrote the Organization's President protesting the dovetailing of freight service employees with passenger service employees when New Jersey Transit took over passenger service operations effective January 1, 1983. Thereafter, after an exchange of internal correspondence, the Claimant filed this appeal. Section 3, First (i) of the Railway Labor Act provides in pertinent part that:

"The disputes between an employee . . . and a Carrier . . . growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions, . . . shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but failing to reach an adjustment in this manner the disputes may be referred to . . . the appropriate division of the Adjustment Board."

The record clearly establishes the merits of this Claim were never discussed on the property by the parties. There is no evidence the Claim was ever filed on the property and thereafter appealed in a timely fashion. In order for the Board to exercise jurisdiction, it must be established that the above quoted provision of the Railway Labor Act has been complied with. Since our findings conclude the dispute has not been handled in the usual manner, the Claim is barred from consideration.

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 November 1987.