

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Ronald W. Ellis
(
(Burlington Northern Railroad Company (former
(St. Louis-San Francisco Railway Company)

STATEMENT OF CLAIM:

Mr. Ellis claims eight (8) hours at straight time rate each day until such time as he is allowed to return to his regular duties as carman at Memphis, Tennessee.

This claim is for continuous time from August 1, 1988 until resolution of the dispute.

Further, Claimant requests full reinstatement of his seniority rights according to a collective bargaining agreement signed by the Burlington Northern Railroad.

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 were given due notice of hearing thereon.

This Board is compelled to dismiss the instant case for failure of the Claimant to comply with the jurisdictional mandates of the Railway Labor Act, as amended. We have found no record of a conference on the property or the "usual handling" as required by Section 3, First (i) of the Act, supra, and Circular No. 1 of the Board.

Even if, arguendo, we had jurisdiction, which we do not, the case at bar would be denied. This instant case has been studied with all assertions and allegations considered in light of substantiating evidence. The facts indicate that the Claimant was granted a one year leave of absence from August 13, 1979, through August 12, 1980, and signed a statement that renewal was his responsibility. The approval stated that "it is our policy to grant leaves of absence of this type for a period of one year." His request to return dated June 20, 1988, some eight years later, lacks Agreement support under Rule 21.

All reference to other positions, seniority lists and correspondence, do not substantiate that Claimant fulfilled his responsibilities to protect his seniority and return from or extend his one year leave of absence. A lack of any correspondence for seven years from the Carrier cannot be taken as compliance with the Agreement and continuation of service. When the Claimant failed by certified mail or other means to assure a Carrier communication extending his leave of absence, he failed to protect his employment (Second Division Awards 10035, 11687; Third Division Award 27894).

Although this instant case has no merit, it must be dismissed, because it reached this Board without the required conference held on the property.

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 16th day of January 1991.