

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 7194
Docket No. 7085-I
2-SP(T&L)-I-'76

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

Parties to Dispute: { Kenneth O. Hay
{
{ Southern Pacific Transportation Company
{ (Texas and Louisiana Lines)

Dispute: Claim of Employees:

Kenneth Hay, carman was cut off with two others in a force reduction June 30, 1967 by Southern Pacific. A claim was presented to the Carrier (E. C. Wolff to J. D. Davis Sept. 25, 1967) under the Washington Job Agreement, Sept. 25, 1964, Article I Section 2, Items (d) lease and purchase of equipment and (f) Technological Changes.

Southern Pacific claimed a decline in business and no Technological Changes (J. D. Davis to E. C. Wolff, Oct. 16, 1967)

On June 16, 1975 a letter was sent to Mr. Biaggini which he sent to Mr. Davis about Rule 24 (when it becomes necessary to reduce expenses each point, shop, department or subdivision thereof shall be considered separately....) Because Hearne or Texas was not suffering a decline this rule was also broken.

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.

Parties to said dispute waived right of appearance at hearing thereon.

This dispute deals with a reduction in force and an assertion that technological changes, rather than a decline in business, caused the reduction.

The Carrier asserts that the claim is barred because it was not appealed to this Board within the contractually prescribed time limits and because we do not have jurisdiction over the dispute.

We do not feel that it is necessary to consider the time limit argument inasmuch as our review of the record compels us to concur with Carrier's jurisdictional assertion.

A review of the September 25, 1964 Agreement clearly shows that jurisdiction over disputes dealing with the application of employee protection of the nature presented in this case, lies solely with the Shop Craft Special Board of Adjustment (Public Law Board 570). See Second Division Award 5667. Accordingly, this Board is without jurisdiction to consider the merits of the dispute.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 3rd day of December, 1976.