

(Ronald S. Mesec
PARTIES TO DISPUTE: (
(Delaware and Hudson Railway Company, Inc.

STATEMENT OF CLAIM: "The question is: Whether two (2) men junior to me, J. H. LeTourneau #40 and W. L. Martineau #41 on the System Seniority Roster of Carmen should have been transferred to Saratoga, New York as Carmen and given \$4,000.00 relocation expenses and time to decide whether they wanted to stay or not.

I request reinstatement with pay and I request the right to bump Carmen junior to me. I request the buyout of my job."

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.

The claim before the Board was not handled on the property in accordance with the requirements of the Railway Labor Act, or as required by Circular No. 1 of this Board. Both under the Act and Circular No. 1 it is mandatory that a conference be held between the parties on the property before this Board can assert jurisdiction. There is no indication in the record that a conference was ever requested or held between the parties while this dispute was on the property.

Even assuming, arguendo, that this claim were properly before the Board, the claim would be denied on the merits. There is no evidence in the record that Claimant's seniority rights were violated. It is, of course, the responsibility of the moving party to support all elements of the claim with probative evidence. In the absence of such evidence, the Board finds no Carrier violation.

Notwithstanding its lack of merit, because this claim reached the Board without the required conference being held on the property, it must be dismissed.

Form 1
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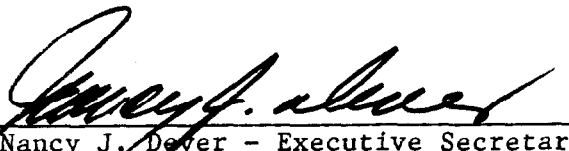
Award No. 12497
Docket No. 12513
93-2-92-2-39

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 20th day of January, 1993.