

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Form 1

Award No. 12782
Docket No. 12647-I
94-2-92-2-153

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

PARTIES TO DISPUTE: (National Railroad Passengers Corporation
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(Andrew J. LaPasnick

STATEMENT OF CLAIM:

- "1. That Amtrak violated past precedent and fair labor practices when they assigned Technicians A.J. LaPasnick and P. Wilbur to the AEM-7 locomotive program and did not compensate them at the same rate of pay as the other Technicians in the program.
2. That Technicians LaPasnick and Wilbur be made whole and compensated for one hour overtime per day for every day worked since being assigned to the AEM-7 program on August 12, 1985. Further, that they continue, from this day forth, to be compensated one hour overtime per day in addition to their regular eight hours."

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 employee 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.

The Claimant asserts that he was assigned to the AEM-7 locomotive program at the Technician's rate of pay but, he asserts, other technicians in the program were compensated at the overtime rate for one hour each day, in addition to the regular eight hours pay. Thus, the Claimant insists that the Carrier violated past precedent and fair labor practices concerning the manner in which he was paid. He also raises certain time limit problems concerning the Carrier's answer.

The Claimant did not cite a particular Rule of the Agreement which was allegedly violated.

The Carrier noted that certain of the other technicians did receive one hour at the overtime rate for traveling for a period of time, which was not in conformity with the Agreement and which practice was stopped in 1991. The Claimant did not lose any compensation properly due him, and he was fully compensated in accordance with the Agreement.

The Carrier also raises a time limits issue since the asserted practice began in 1985, and a claim was not submitted until six years thereafter, which assertedly does not comply with the 60-day limitation for alleging violations of the Agreement as contained in Rule 24(a).

The Claimant raised a time limit issue concerning the Carrier's answer during the processing of the case. While the Claimant may have stated a reluctance to grant any time extension, such an agreement was reached between the Carrier and the employee's representative at the time.

The Board is of the view that the claim was void from its inception since a lengthy period of time had elapsed, and it is rather difficult to comprehend that the Claimant would not have known of the alleged violation before the expiration of six years. But, in any event, the Claimant has not alleged any particular Rule that was violated, which is an essential ingredient of a successful claim.

A W A R D

Claim dismissed.

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O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois this 17 day of November, 1994.