

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13310

Docket No. 13135

98-2-96-2-40

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Baltimore and
(Ohio Railroad Company)

STATEMENT OF CLAIM:

- "1. That the Carrier failed to recall Carman L.A. Weinrich to service on August 18, 1993 and instead placed Carman R. G. Lynn on the Baltimore, Maryland Seniority Roster on August 18, 1993.**
- 2. That the Carrier be order to recompense Carman L.A. Weinrich eight (8) hours Carmen rate-of-pay for each and every day beginning on August 18, 1993 and continuing January 3, 1995."**

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.

On February 1, 1995, the Organization filed a claim on behalf of the Claimant in which it contended that another Carman had been placed on the Baltimore, Maryland, Seniority Roster on August 18, 1993, rather than recalling the Claimant.

The record shows that the Claimant last worked for the Carrier in 1984. Since that date, he had been employed as a Carman for the Canton Railroad Company.

While all manner of contentions and arguments have been advanced, the threshold issue is whether the claim has been filed in a timely manner. We find that it was not. Rule 33 of the controlling Agreement requires that claims be submitted "within 60 days from the date of the occurrence on which the claim or grievance is based." The "occurrence" in this case took place when the 1994 Seniority Roster was posted in January 1994. The Organization and the Claimant both had access to the Seniority Roster. If that Roster was not correct, the time to object was within "60 days" of the posting, i.e., by March 1994, rather than February 1, 1995, when this claim was filed.

AWARD

Claim dismissed.

ORDER

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 6th day of August 1998.