

Award No. 10905

Docket No. MS-12899

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

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**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
NEW YORK CENTRAL RAILROAD (Western District)**

STATEMENT OF CLAIM: I feel that I should be fully reinstated on the Carpenter's seniority roster and also in the Union, receive all back pay from April 1959 and plus \$10.63 per month for 18 months which I had to pay for hospitalization which the railroad would have paid if I had been working.

I am appealing to you for necessary attention and any action you see fit.

OPINION OF BOARD: Among other things, the Claimant contends that he "should be fully reinstated . . . also in the Union." This Board has no jurisdiction whatsoever on that specific issue and we must dismiss that part of the claim for want of jurisdiction.

With respect to the remainder of the claim, the record is replete with evidence submitted respectively by the Carrier and by the Organization which clearly proves that there is no merit whatsoever to the Claimant's claim and also that it was not submitted in conformance with agreement rules. In addition, the Claimant has submitted no evidence whatsoever to refute any of the showings made by the Carrier and by the Organization and there is irrefutable evidence that the Claimant failed to respond to a written notice to return to service on his home district and that he, therefore, forfeited seniority as provided for in the controlling agreement. Therefore, the claim is without merit and must be and is hereby denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has no jurisdiction over the Claimant's request for reinstatement in the Union although it does have jurisdiction over the remaining issues presented by the Claimant; and

That the Agreement was not violated.

AWARD

Claim for reinstatement to the Union dismissed for want of jurisdiction.
Remainder of claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 9th day of November 1962.