

Award No. 12417

Docket No. MW-11639

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective Agreement when it assigned Apprentice Foreman A. P. Brinson to perform Section Foreman's duties during the month of February, 1958 and failed and refused to compensate him therefor at the Section Foreman's rate of pay.

(2) Apprentice Foreman A. P. Brinson be paid section foreman's pay for the month of February, 1958, at the rate applicable to the position set forth in Bulletin No. 1224 establishing the position of section foreman at Millen, Georgia.

EMPLOYEES' STATEMENT OF FACTS: The Claimant was regularly assigned to the position of Apprentice Foreman on the Section headquartered at Millen, Georgia.

During the month of February, 1958, the claimant was assigned to and performed the duties attached to the position of section foreman on the aforementioned section, for which he was compensated at the Apprentice Foreman's rate of pay.

The dates and the section foreman's duties performed by the claimant are as follows:

On February 3, 1958, the claimant accompanied by two laborers, patrolled track (motored) from Millen, Georgia to Mile Post 84½ and return, a total of eleven miles, raising and leveling track at Mile Post 84½.

On February 5, 1958, the claimant accompanied by two laborers patrolled track (motored) from Millen, Georgia, to Waynesboro, Georgia, and return, a total of forty-two miles, making track repairs, in Waynesboro yard, inspecting track, and replacing missing track bolts;

OPINION OF BOARD: Article V of the November 5, 1954 Agreement between these parties (National Agreement of August 21, 1954) contains the following deemed pertinent and applicable here:

"1. All claims or grievances arising on or after January 1, 1955 shall be handled as follows:

* * * * *

- (c) The requirements outlined in paragraphs (a) and (b), pertaining to appeal by the employe and decision by the Carrier, shall govern in appeals taken to each succeeding officer, except in cases of appeal from the decision of the highest officer designated by the Carrier to handle such disputes. All claims or grievances involved in a decision by the highest officer shall be barred unless within 9 months from the date of said officer's decision proceedings are instituted by the employe or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board or a system, group or regional board of adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. It is understood, however, that the parties may by agreement in any particular case extend the 9 months' period herein referred to."
(Emphasis ours.)

The record establishes that this claim was finally declined by the highest officer designated by this Carrier to handle the dispute on October 9, 1958. No extension of time was requested by either party. The Organization's letter submitting the claim to this Division is dated August 19, 1959. Thus, more than 9 months elapsed between the date of final declination on the property and the date proceedings were instituted before this Division.

The Board has held that where, as here, a conference takes place after the decision is affirmed, the time limit on claims rule is not extended thereby.

(Awards 10347, 10688, 11597.)

In view of the foregoing, the Board may not properly proceed to a consideration of the merits of this claim. It will be dismissed for failure to comply with the time limit requirements of Article V of the Agreement.

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

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim is barred under the Agreement of November 5, 1954.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of April 1964.