

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20000
Docket Number MS-20136

Irving T. Bergman, Referee

(R. W. Cooper, Jr.

PARTIES TO DISPUTE: (

(The Chesapeake and Ohio Railway Company

STATEMENT OF CUM: This is to ~~serve~~ notice, as required by the ruler of the National Railroad Adjustment Board, of my intention to file an ~~ex parte~~ submission on October 11, 1972 covering an ~~unadjusted dispute~~ between Ray W. Cooper, Jr. and C&O B&O Railroad Company. Huntington. West Virginia.

On July 3, 1964, I ~~was~~ granted "Home Rule 18B" at my terminal of Elk Run Jct, West Virginia.

I ~~was~~ never called back to work when a permanent position occurred. When the ~~vacancy~~ occurred, two other employees who are junior to me was awarded the permanent position.

I should have been notified of the opening, and I would have taken the position if I had been notified.

I ask to be compensated for time lost retroactive to the time the permanent position was vacated and awarded.

OPINION OF BOARD: Claimant has complained that he ~~was~~ passed over in order of seniority for a ~~position~~ at his home terminal. In 1964, he had written to the Superintendent that since ~~his~~ position had been abolished, he elected to take the "Home Rule", but did not desire extra work. Nothing further ~~was~~ heard from ~~claimant~~ until June 1972 when he wrote to the Superintendent that he had Just returned from Florida and learned that a junior employee ~~was~~ filling a position for which he should have been called.

At the request of his local Chairman, claimant ~~was~~ given a seniority hearing which ~~resulted~~ in a decision favorable to claimant. He ~~was~~ assigned to a position to ~~commence~~ November 1, 1972. He laid off sick on November 1, 2 and 3, worked November 6, and at his request was given permission to be ~~absent on~~ November 7 through 10. November 6, 1972 was the last day claimant ~~was~~ in contact with the Carrier and as of February 10, 1973 had not returned to fill his ~~assignment~~. Carrier does not know why the claimant has not filled his ~~assignment~~ and has not heard from him.

Apparently the ~~matter~~ is before this Board as the ~~result~~ of a claim letter submitted in September 1972. Other than the question of ~~seniority~~ which was worked out between the parties, the issue appears to be pay retroactive to the date claimant alleges ~~that~~ he should have been called.

The Carrier has raised the question of ~~timeliness~~ and failure to process the claim properly on the property.

Review of the record demonstrates that the Petitioner ~~did~~ not handle the claim on the property in accordance with the ~~applicable~~ provisions of ~~the~~ contract between the parties nor ~~as~~ required by Section 3, First (1) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. ~~As~~ a consequence, the claim is not properly before us and we may not consider the ~~merits~~ thereof.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing:

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

The claim will be ~~dismissed~~.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ~~ADJUSTMENT~~ BOARD
By Order of Third Division

ATTEST: A.W. Paulose
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1973.