

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22132**
Docket Number MS-22239

Joseph A. Sickles, Referee

(Joseph M. Moray
PARTIES TO DISPUTE: (
(Consolidated Bail Corporation

STATEMENT OF CLAIM: Why has Consolidated Bail Corporation consistently and deliberately failed to make timely payment of claims duly submitted for Monthly Displacement Allowance to **which I am** entitled under Title V of Public Law 93-236, "Regional **Rail** Reorganization Act of 1973".

OPINION OF BOARD: **The** Claimant was a Chief Clerk (Sales Department) for the Erie **Lackawanna** Railroad, in San Francisco, California, prior to the conveyance date (April 1, **1976**), **i. e.**, the **formation** of Conrail. At that time he became a Conrail protected **employee** entitled to a monthly displacement allowance if deprived of employment.

The record shows that on July 8, 1977, **Claimant** accepted a separation allowance; but **now** he asserts **that** his monthly displacement allowance was **in** arrears at various times. It appears to us that all obligated payments have been made.

In its defense to the claim, Carrier has questioned this Board's jurisdiction, asserting "**mootness**," absence of a "case or controversy," that jurisdiction lies under the procedures established under Section 507, and the fact that the claim was not **handled** in the **usual manner on the property as required by** Section **3**, First **(1)** of the **Railway Labor Act**.

It is by no means certain that this Board has any jurisdiction in **the** matter. Even if we did, we would be inclined to find that the Claimant's acceptance of the separation allowance would surely blunt - and render moot - the complaint over the time lag in receipt of the monthly allowance.

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 Employes** involved in this dispute are respectively Carrier and **Employes** 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 Agreement has not been violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauler
Executive Secretary

Dated at Chicago, Illinois, **this 30th** day of **June 1978**.

