

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24142
Docket Number MS-24310

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { J. H. Johnson
{ Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file **ex parte** submission on September 26, 1981 covering an unadjusted dispute between me and the Santa Fe Railway Company involving the question: Claim of J. H. Johnson, RAO, Ins Angeles, Account Wrongfully Assessed Thirty Demerits as a Result of Formal Investigation Held November 21, 1979."

OPINION OF BOARD: The controlling Agreement contains a "time limits on claims and grievances" rule and that rule (47-A(3)) states that claims or grievances involved in a decision by the highest designated officer shall be barred unless within nine (9) months from the date of said Officer's decision, proceedings be instituted by the Employee or his duly authorized Representative before the appropriate Division of the National Railroad Adjustment Board, etc. The final declination was issued on June 11, 1980 and although certain time extensions were agreed to by the Carrier the last pertinent time period expired on July 9, 1981. A letter was not forwarded to the National Railroad Adjustment Board until August 31, 1981.

This Board has held consistently - for many years - that it is not incumbent upon us to substitute our judgment for that of the parties when they negotiated the Agreement. Rather, we are required to apply the written contractual language. In this case, the record is clear that the matter was not submitted to this Board within the contractually required time period and thus we do not have jurisdiction to consider the merits of the case.

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 Employee 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.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of January 1983.

