

NATIONAL. RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24788
Docket Number MS-24646

George V. Boyle, Referee

(K. T. Johnson

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM: **"This** is to serve notice, as required by the **rules** of the National Railroad Adjustment Board, of my time claim. K. T. Johnson was denied the right to operate the Log Loader in Conway Yards. from September 4, 1979 to November 5, 1979. The time claims hours are 234 hours overtime and 27 **1/2** hours doble [sic). The job was given to a junior employee **J. D. Bailey**.

I believe that there was discrimination in my case, because I have 5 years EWE and machine service over **J. D. Bailey**, and I am qualified on the Tie **Handler** and that is what a **Log** Loader is. **J. D. Bailey** is not qualified on the Tie Handler. I am also qualified on 4 out of 5 cranes operated in Conway Yards:

OPINION OF BOARD: Without evaluating the merits of the Claimant's assertions relative to his qualifications, seniority or discriminatory **treatment, the** Board finds that **the claim** is procedurally defective.

Under Rule 5 **(b)** the **claim** must be made within nine **(9)** months of the decision by the Director - Labor Relations.

Rule **5(b)** is quoted as follows:

"All claims **or** grievances involved in a decision by the Director - Labor Relations shall be barred unless within nine (9) months from the date of said officer's decision the claim or grievance is filed with the Third Division, National Railroad Adjustment board or an appropriate Public Law **Board.**" (Letter agreement of February 10, 1970)

The Director - Labor Relations issued his decision in a letter dated April 14, 1981. The Claimant failed to file his claim with the Board **until** February 23, 1982, same 10 months and nine days later.

Numerous decisions have held that the Board is prohibited from considering claims not timely filed and thus we find that we do not have authority to consider the case. Accordingly the claim must be dismissed.

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

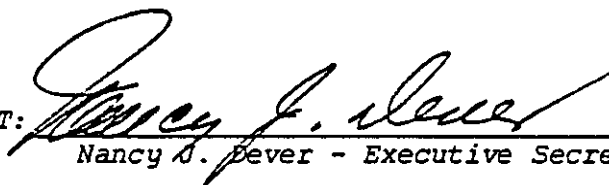
That the claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1984

