NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 25675

THIRD DIVISION

Docket Number MS-25758

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Harry G. Schmitt
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"The dispute in question requests that I have my original seniority date returned to me."

OPINION OF BOARD: This is a seniority dispute wherein the Petitioner (the Claimant) requests that his *original seniority date" be restored.

The relevant facts are that the Claimant entered the service of the Pennsylvania Railroad Company, as a Clerk, on February 2, 1960. In July 1961, he transferred to the Long Island Railroad, while retaining seniority with the Pennsylvania Railroad. On October 30, 1961, he was recalled to a clerical position with the Pennsylvania Railroad. He did not respond to this recall, and his name was removed from the seniority roster of the Pennsylvania Railroad.

On January 2, 1962, he entered military service. Upon discharge, he returned to service with the Long Island Railroad. On September 22, 1965, the Claimant obtained clerical employment with the Pennsylvania Railroad. He thus established his clerical seniority date with that Carrier on September 22, 1965.

On February 2, 1982, the Organization on the property protested the Claimant's seniority date on a number of grounds, asserting that it should be February 2, 1960 rather than September 22, 1965. The Carrier turned the protest aside principally on the basis that it was untimely.

In a letter to the Claimant of January 24, 1984, the Organization advised him that he had forfeited his original seniority on the Pennsylvania Railroad when he did not respond to the Pennsylvania Railroad recall on October 30. 1961.

The Carrier, in its presentation of its position to the Board, asserts that this Claim should be dismissed on a number of procedural grounds. Dismissal is appropriate, the Carrier asserts, because the dispute was not handled in the usual manner on the property; because the Claimant failed to appeal in a timely manner and, finally, because the Carries and the Organization agree that the Claimant's action was 'properly handled under the provision of the controlling agreement". The Claimant, in effect, is now requesting the Board "to rule on the validity of the agreement in question, a matter over which the Board lacks jurisdiction".

In our review of this case, we agree with the Carrier's position. While the Board is not unmindful of the Claimant's contentions, it finds that the Claim does not comport with the specific requirements of Section 3, First (i) and Section 2 of the Railway Labor Act and, therefore, this Board lacks jurisdiction over the issue presented here.

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 was not violated.

A W A R D

Claim is Dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of October 1985.