

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26692

Docket Number MS-26386

Robert W. McAllister, Referee

(Bernard A. Dock

PARTIES TO DISPUTE: (

(Chicago, Milwaukee, St. Paul and Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of Bernard A. Dock that:

1. Carrier violated the Clerks' Rules Agreement at Minneapolis, Minnesota when it failed and/or refused to compensate Employee B. A. Dock sick leave payment for December 19 and 20, 1983.

2. Carrier shall now be required to compensate Employee B. A. Dock for eight (8) hours pay at the pro rata rate of Yard Clerk Position No. 14720 for December 19 and 20, 1983."

OPINION OF BOARD: The Carrier denied the Claimant sick leave compensation for December 19 and 20, 1983. On November 5, 1984, the Carrier wrote the General Chairman and extended the time limits for a number of cases. This Claim was among those cases and, accordingly, the Claimant had until January 4, 1985, to file this appeal. Presuming the Claimant's letter dated March 14, 1984, is a Notice of Intent, the filing does not meet the mandatory provisions of Rule 36 which deals with claims and grievances. Rule 36 requires initiation of proceedings be within nine (9) months of a decision by the Carrier's highest designated Officer. Accordingly, the Board is without power and lacks the jurisdiction to handle an untimely Claim.

Even, if we could consider the merits, it is evident the Claimant's past record of attendance was such that the Carrier had reason to request he provide satisfactory evidence of his illness. We certainly cannot, under such circumstances, consider the Carrier's requirement to be arbitrary.

Notwithstanding, this Claim was not filed within the time limits set forth in Rule 36, including the sixty (60) day extension, which would have required the initiation of proceeding on or before January 4, 1985.

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

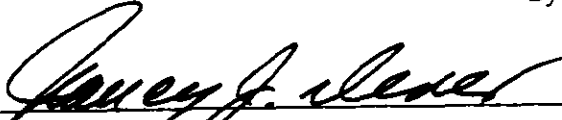
That the Claim is barred.

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 23rd day of November 1987.