

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (James McCraney and David E. Salvino  
(Burlington Northern Railroad Company

STATEMENT OF CLAIM: "James McCraney was discriminated against when the Carrier (Burlington Northern Railroad) administered grave difference in discipline between Mr. McCraney and R. D. Brawner, J. G. Zavala, and F. Avalos under the same circumstances of improper filing of labor distribution."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

On December 5, 1983, following an investigation, Claimant, a Section Foreman, was suspended for thirty days and restricted to the classification of Section Laborer for his alleged failure to fill out Labor Distribution Forms properly.

In August 1986, the Organization notified Carrier that Claimant's discipline was more severe than that issued to other employees in July 1986 for the same offense. Carrier notified the Organization that the claim was not timely filed and it was subsequently advanced to the Board.

The Board, however, is barred from issuing a determination on this matter because of our lack of jurisdiction. Under Rule 42, Claimant was required to present a claim to set aside his discipline within sixty days of December 5, 1983. He did not do so at the time. His late filing results in an improper submission and this Board may not consider it. (See Third Division Awards 20251, 20330, 21983, 23947, 23466, 23520, 24047, 24360, 24475, et al.)

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Award No. 27155  
Docket No. MS-27370  
88-3-86-3-600

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1988.