

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 27693  
Docket No. MW-27183  
89-3-86-3-251

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Western Maryland Railroad Company

STATEMENT OF CLAIM: "Claim of System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it used either a foreman, assistant foreman or a machine operator to perform trackman's work on the Hagerstown Seniority District (System File MW-5).

(2) Because of the aforesaid violation, the senior furloughed trackmen holding seniority on the Hagerstown Seniority District Shall be compensated for all wage loss suffered beginning sixty (60) days retroactive from March 25, 1985 and continuing until the violation referred to in Part (1) hereof is terminated."

FINDINGS:

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

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

This Claim is a similar to the claim involved in Third Division Award 27327. Both Claims are premised on a notion that the Agreement was violated when Carrier restructured forces in late 1984, and abolished certain positions and had work of the abolished positions performed by remaining personnel. As was the case concerning the Claim before us in Award 27327, Carrier here also raises a time limit defense. It argues that the incident upon which this matter is based was the abolishment of a trackman's position which occurred two years prior to the filing date of the Claim. It seeks to have it dismissed under the provisions of Rule 16, contending that the Claim was filed out of time.

In Award 27327 we dealt with the same basic issues as those here involved and dismissed that Claim because it was our view that it was filed out of time. Nothing in this record persuades us that a different result is required here. The Claim will be dismissed.

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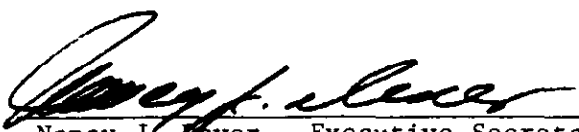
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A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of February 1989.