

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27776
Docket No. MW-27198
89-3-86-3-557

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Soo Line Railroad Company

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

(1) The Carrier violated the Agreement when it disqualified Mr. Kurt Weber as a tractor operator on June 12, 1985 without just cause (System File 6(d) [13-6(b)]/G-97-5-A-1).

(2) The Carrier further violated the Agreement when it denied Claimant Kurt Weber the right of hearing in accordance with Rule 6(d).

(3) As a consequence of either (1) and/or (2) above, Claimant Kurt Weber shall be returned to his position as tractor operator with seniority as such unimpaired and he shall be compensated for all compensation loss suffered by him."

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 employes 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.

The record which this Board reviewed does not contain sufficient probative evidence that it was properly conferenced on the property as required by Section 3, First (1) of the Railway Labor Act, as amended.

A review of the correspondence to determine the merits of the Organization's position must be preceded by a record of compliance with jurisdictional requirements. The Organization's Rebuttal, which includes new evidence before this Board, does not sufficiently establish that a conference was held on the property.

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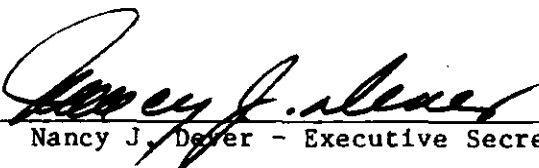
While we do not desire to decide on procedural grounds, we have no choice in the instant Claim. There is a lack of evidence that this case was conferenced on the property and it must therefore be dismissed by this Board without considering its merits (Third Division Awards 26867, 26853, 23239).

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 2nd day of March 1989.