

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 29510

Docket No. MW-29182

93-3-90-3-38

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

(Brotherhood of Maintenance
(of Way Employes

PARTIES TO DISPUTE:

(
(National Railroad Passenger Corporation
(Amtrak) - Northeast Corridor

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it executed a lease agreement with SEPTA, dated January 1, 1987, regarding the repair and maintenance of Carrier owned station facilities at Bryn Mawr, Downingtown, Exton, Malvern, Overbrook and Whitford, Pennsylvania (System File NEC-BMWE-SD-1919 AMT).

(2) The Agreement was further violated when the Carrier failed to give the General Chairman advance written notice of its intention to contract said work, in accordance with Paragraphs 2 and 3 of the Scope Rule and the December 11, 1981 Letter of Agreement.

(3) As a consequence of Part (1) and/or Part (2) above:

'*** The Organization requests that each employee holding seniority rights on the above mentioned rosters receive an equal proportionate share to the total man hours expended by the SEPTA forces in the maintenance, repair and remodeling of these station properties. This work includes, but is not limited to, the painting of the properties, masonry work, carpentry repairs, plumbing repairs and new installations, and other such work that accrues under the Work Classification Rules to the classifications contained on the Southern District Structures Department rosters.'"

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.

Before consideration of the merits of the Organization's Claim the Board must dispose of Carrier's contention that the time limit provisions of the Agreement have not been satisfied. The Statement of Claim indicates that it is the contention of the Organization that the Agreement was violated when a lease, dated January 1, 1987, was executed between Amtrak and SEPTA, regarding repair and maintenance of several stations in the Philadelphia Suburban area, which had as its purpose evading the application of Article IV of the Agreement. Carrier contends that the lease triggered a single occurrence and if any claims were to be filed alleging a violation of the Agreement, such claims, by the operative language of Rule 64, must be filed within sixty days of that date. The Claim under review here, dated April 7, 1987, was not filed until April 10, 1987, which date is outside the sixty day period provided in the Rule.

The Board, upon review of the entire record, finds the position of the Carrier to have merit. The triggering event for the Claim, by the Organization's own Statement of Facts, was the lease dated January 1, 1987. That was the date of occurrence. The instant Claim was not filed within sixty days of that date. It is out of time. The Claim must be dismissed.

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 3rd day of February 1993.