

Form **RECEIVED** NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

JAN - 5 1995

Award No. 30625
Docket No. CL-30617
94-3-92-3-448

G. L. HART

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

PARTIES TO DISPUTE: (Transportation Communications International
(Union
(Southern Pacific Transportation Company
(Western Lines)

STATEMENT OF CLAIM: "Claim of the System Committee of the Union
(GL-10824) that:

(a) The Southern Pacific Transportation Co. violated the Agreement when it directed and/or permitted employees not covered by the Agreement to perform work that was reserved to Mr. J.E. Ward, and;

(b) The Southern Pacific Transportation Co. shall now be required to restore the work to the employee covered under the collective bargaining agreement and pay Mr. J.E. Ward an additional two-hours compensation at the pro rata rate at the time and one-half rate of position 583, Lift Truck Operator (\$104.64 per day), for April 20, 21, May 4, 11, 21, 26, 29; eight hours additional compensation at time and one-half rate on April 17 and eight hours additional compensation at straight-time rate on April 19, 1989."

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 employee 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.

On March 1, 1988, the Carrier abolished Position No. 591 Lift Truck Operator at the P&M Department, Roseville, California. Throughout the handling of the claim, the Organization claims the job was abolished in June 1988, but gives no specific date. Beginning in April 1989, Claimant began filing claims that a mechanical department laborer was performing clerical work belonging to the former Position No. 591. Throughout the handling of this claim, the Organization based the claim on the abolishment of the position.

The Carrier has taken the position that the claim should be barred because it was not filed within 60 days of the abolishment of the job. Rule 24 of the Agreement requires all claims and grievances must be filed within 60 days from the date of the occurrence on which the claim is based. The issue of the time of occurrence has been handled by the Board in the past. In Third Division Award 12045, the Board held:

"Our review of the numerous awards concerned with the time limit issue distinguished between a continuing claim and a non-continuing claim largely on the basis of whether the violation is performed repeatedly or is a single or final act which occurs on a specific date such as removal from a seniority list or the abolishment of a position and the transfer of work to employee of another class. The awards involving abolishment of a position and transfer of work to another class, as Award No. 10532, hold that such a violation is not of the continuing type. In the case of bar, Carrier abolished the position of Material and Supply Clerk on April 1, 1958 and transferred work to the Car Foreman. The abolishment of the position took place on that date; and if there was a violation, it occurred then and only then."

The time to commence filing claims in this case was March 1, 1988. The claim is barred.

AWARD

Claim dismissed.

Form 1
Page 3

Award No. 30625
Docket No. CL-30617
94-3-92-3-448

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of December 1994.