

NATIONAL RAILROAD ADJUSTMENT BOARD
DIVISIONAward No. 31109
Docket No. CL-31436
95-3-92-3-541

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

(Transportation Communications
(International Union
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company

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

1. The Union Pacific Railroad Company violated the Agreement effective May 16, 1981, as amended and supplemented when it failed to allow NPS Timekeeping training for clerical employe, M.J. Fogarty.
2. The Union Pacific Railroad Company shall now be required to afford clerical employe M.J. Fogarty Non-Operating Personnel Services (NPS) Representative Training.
3. The Union Pacific Railroad Company shall now be required to compensate clerical employe M.J. Fogarty the difference in pay between a NPS Representative position and a Janitor position commencing April 1, 1991 on a continuous basis. Said differential to be adjusted through the step rate wage structure."

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.

The triggering incident in this case occurred on February 1, 1991, at which time Claimant was displaced from his PBX position and denied Timekeeping training on the grounds that he lacked the keyboard skills. Claimant maintains he achieved such skills as of February 7, 1991, but he was still prohibited by Carrier from entering the NPS training class which began February 19, 1991.

The instant claim was filed on May 28, 1991, more than 100 days after the triggering incident. The Board is not persuaded that the triggering date for the claim is April 16, 1991, when Claimant was permanently assigned to a janitorial position. Giving Claimant all benefit of the doubt, the latest date he might arguably propose as the triggering date is February 19, 1991. On that date it was clear that Carrier would not permit him to attend the NPS training. Since that is the violation claimed, Claimant cannot now focus on a much later incident in order to resuscitate his claim. The claim, as filed, was not presented within the sixty day contractual limit. Accordingly, it must be dismissed.

AWARD

Claim dismissed.

ORDER

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 1st day of September 1995.