

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32024
Docket No. TD-32249
97-3-95-3-56**

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

**(American Train Dispatchers Department/International
(Brotherhood of Locomotive Engineers
PARTIES TO DISPUTE: (
(Central Vermont Railway, Inc.**

STATEMENT OF CLAIM:

"Formal grievance concerning Carol Pion's disqualification as a train dispatcher."

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 were given due notice of hearing thereon.

Claimant was hired by Carrier in the transportation department on February 2, 1980. In February 1990, Claimant was selected as one of the candidates for a spare dispatcher's position. She entered a training period and became qualified with a seniority date of May 17, 1990. Claimant worked sporadically as a Train Dispatcher until September 15, 1992, when she was sent a letter dated September 15, 1992, notifying her that she was being terminated as a spare train dispatcher, due to her unsatisfactory performance. On November 2, 1992, Claimant notified Carrier that she

was making a formal challenge to her termination. After several postponements, the hearing was commenced on February 3, 1993. During the hearing it was discovered that Claimant had failed to meet the time limit rule of the agreement. The hearing was then recessed, and on March 15, 1993, she was notified that her grievance was not timely and the hearing was officially terminated.

The Board has reviewed this record carefully. The language of the Agreement between the Parties is clear:

"A train dispatcher who considers himself otherwise unjustly treated will have the same right of investigation and appeal as provided in this rule, if written request is made to his superintendent within thirty (30) days from cause of complaint." (Emphasis added)

Claimant was beyond the contractual limit when she notified Carrier that she wished to protest her disqualification. However, we need not dispose of this matter solely on a procedural issue.

The record also indicates that the Claimant was offered an opportunity to return to work as a spare Train Dispatcher and declined stating "...I will not accept the position of spare dispatcher for fear of that my supervisors would be watching and waiting for misjudgment call or any human error made." This statement coupled with the fact that the Claimant signed a broadly termed release on February 3, 1995 forever discharging the Carrier of any claims, demands or causes of action, is ample reason to deny the claim.

AWARD

Claim dismissed.

Form 1
Page 3

Award No. 32024
Docket No. TD-32249
97-3-95-3-56

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 6th day of May 1997.