

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32038
Docket No. SG-32571
97-3-95-3-495**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Port Authority Trans-Hudson Corporation (PATH)**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen (BRS) on the Port Authority Trans-Hudson Corporation (PATH):

Claim on behalf of L. F. Ambrosio, et al., for payment in accordance with the compensation afforded to other employees for attending the N.I.D.A. training program, with the amount to be determined by a check of Carrier's records, account Carrier violated the current Signalmen's Agreement, particularly the seniority provisions and Article VII-C, when it failed to advertise vacancies in the N.I.D.A. Training Program and assigned junior employees instead of the Claimant and other senior employees to attend the training program. BRS File Case No. 9664-PATH."

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.

At the time this dispute arose, Claimant was assigned to a position of Signal Testman.

Carrier established a supplemental training program for Signal Department employees in 1992, consisting of classroom instruction of 2.5 hours twice a week for two to three years, and made it available to Signal Shop Repairmen and Signal Testmen. Subsequently, the program was opened to employees in other classes, and Carrier began assigning employees to slots in the program without regard to seniority.

The Organization filed claim on June 28, 1994, on behalf of Claimant contending that Carrier violated the agreement when it assigned a junior employee to attend the training program. Carrier denied the claim on July 6, 1994, asserting that the agreement cited did not require it to send employees to training classes in any particular order, seniority or otherwise.

The Organization filed an appeal of the decision August 3, 1994, which was denied by Carrier August 22, 1994.

Being unable to obtain satisfactory adjustment of the claim, the Organization instituted proceedings for final disposition of the claim with this Board by letter dated September 27, 1995.

In its submission to this Board, Carrier raises a procedural issue which we must first resolve before consideration, if any, can be given to the merits.

It is the position of the Carrier that the Organization did not timely file its appeal with this Board. The record reveals that the Notice of Intent to file with this Board was dated September 27, 1995, more than one year beyond August 22, 1994, the date of Carrier's final declination of the claim.

Article XI, Paragraph C of the controlling agreement provides:

"C. A final decision denying a grievance shall be binding upon the BRS unless, within one (1) year from the date of said final decision, such

grievance is disposed of on the property or proceedings for the final disposition of the grievance are instituted by the General Committee of the BRS with notice to PATH."

Clearly, the Organization did not file proceeding with this Board for final disposition of its claim within one year from the date of Carrier's final decision. Therefore, the Carrier's final decision of August 22, 1994, is final and binding disposition thereof.

This Board is left with no alternative except to dismiss the claim for lack of jurisdiction to address the merits of the claim.

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 6th day of May 1997.