

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32442
Docket No. MW-31280
98-3-93-3-198

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

PARTIES TO DISPUTE: (**Brotherhood of Maintenance of Way Employes**
(**Consolidated Rail Corporation**

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed and refused to afford Mr. J. McMahon a seniority date on the Allegheny 'A' Division Trackman Seniority Roster as of April 17, 1990 (System Docket MW-2386).**
- (2) As a consequence of the aforesaid violation, the Carrier shall allow Mr. J. McMahon a seniority date of April 17, 1990 on the Allegheny 'A' Division Trackman Seniority Roster and he shall be compensated for all wage loss suffered and credit for vacation and health benefit purposes."**

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 contends that he is entitled to be carried on the Allegheny "A" Division Trackman Seniority Roster with a seniority date of April 17, 1990. Carrier contends that his protest of the seniority roster was not timely made. The evidence in this record supports Carrier's contentions. Claimant had 90 days from the date he returned from furloughed status to file a roster protest. Claimant's protest was filed 93 days after he returned from furlough. Under the explicit terms of Rule 4 it was out of time. Accordingly, his claim 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 21st day of January 1998.