

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36547
Docket No. MS-36696
03-3-01-3-209**

The Third Division consisted of the regular members and in addition Referee Ann S. Kenis when award was rendered.

**(Jimmie R. Johnson and Earl Jasper
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company**

STATEMENT OF CLAIM:

"The claim, as described by the Claimants, reads as follows:

- (1) Carrier violated clerks' TOPS Agreement in January of 1988 thus forcing us to resign.**
- (2) We want to be compensated from January of 1988 with back pay with the option of coming back to the Carrier's employment."**

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.

This dispute deals with the Carrier's action of abolishing certain positions and transferring work associated with those positions to various seniority districts and locations in December 1987.

The Carrier has raised several defenses to the instant claim. However, we find that one such defense is dispositive of the matter and therefore it is unnecessary to comment at length upon additional arguments raised by the parties.

As the Carrier points out, this same dispute was submitted to Public Law Board No. 5473. Parties to that dispute were the Transportation Communication International Union (TCIU) and the Carrier herein. Following a Hearing, the Board issued a denial Award which was adopted by the parties on March 23, 2001 as Case 61 of Public Law Board No. 5473.

On April 18, 2001, the Carrier received what the Claimants termed an "appeal" taking exception to Case 61 of Public Law Board No. 5473. The Claimants subsequently advised both the Carrier and the Board of their intent to file a Submission in the instant matter.

In essence, the Claimants are attempting to relitigate the same claim that was adjudicated before the Board in Case 61 of Public Law Board No. 5473. However, that decision is final and binding under the Railway Labor Act and not subject to rehearing or "appeal" before the Board. Whether phrased as res judicata, collateral estoppel or stare decisis, every division of the Adjustment Board has recognized that the Board is barred from reconsidering claims that have been previously denied by another Section 3 tribunal. First Division Award 24618; Second Division Award 8551; Third Division Award 22406; Fourth Division Award 3443. We have not been presented with any compelling reason to depart from this sound tenet in the matter at bar. Accordingly, the 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 8th day of May 2003.