

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20000
Docket Number MS-20136

Irving T. Bergman, Referee

(R. W. Cooper, Jr.

PARTIES TO DISPUTE: (

(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on October 11, 1972 covering an unadjusted dispute between Ray W. Cooper, Jr. and C&O B&O Railroad Company, Huntington, West Virginia.

On July 3, 1964, I was granted "Home Rule 18B" at my terminal of Elk Run Jct, West Virginia.

I was never called back to work when a permanent position occurred. When the vacancy occurred, two other employees who are junior to me was awarded the permanent position.

I should have been notified of the opening, and I would have taken the position if I had been notified.

I ask to be compensated for time lost retroactive to the time the permanent position was vacated and awarded.

OPINION OF BOARD: Claimant has complained that he was passed over in order of seniority for a position at his home terminal. In 1964, he had written to the Superintendent that since his position had been abolished, he elected to take the "Home Rule", but did not desire extra work. Nothing further was heard from claimant until June 1972 when he wrote to the Superintendent that he had just returned from Florida and learned that a junior employee was filling a position for which he should have been called.

At the request of his local Chairman, claimant was given a seniority hearing which resulted in a decision favorable to claimant. He was assigned to a position to commence November 1, 1972. He laid off sick on November 1, 2 and 3, worked November 6, and at his request was given permission to be absent on November 7 through 10. November 6, 1972 was the last day claimant was in contact with the Carrier and as of February 10, 1973 had not returned to fill his assignment. Carrier does not know why the claimant has not filled his assignment and has not heard from him.

Apparently the matter is before this Board as the result of a claim letter submitted in September 1972. Other than the question of seniority which was worked out between the parties, the issue appears to be pay retroactive to the date claimant alleges that he should have been called.

The Carrier has raised the question of timeliness and failure to process the claim properly on the property.

Review of the record demonstrates that the Petitioner did not handle the claim on the property in accordance with the applicable provisions of the contract between the parties nor as required by Section 3, First (1) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. As a consequence, the claim is not properly before us and we may not consider the merits thereof.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

The claim will be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1973.