

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22132
Docket Number MS-22239

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Joseph M. Moray
(
(Consolidated Rail Corporation

STATEMENT OF CLAIM: Why has Consolidated Rail Corporation consistently and deliberately failed to make timely payment of claims duly submitted for Monthly Displacement Allowance to which I am entitled under Title V of Public Law 93-236, "Regional Rail Reorganization Act of 1973".

OPINION OF BOARD: The Claimant was a Chief Clerk (Sales Department) for the Erie Lackawanna Railroad, in San Francisco, California, prior to the conveyance date (April 1, 1976), i. e., the formation of Conrail. At that time he became a Conrail protected employee entitled to a monthly displacement allowance if deprived of employment.

The record shows that on July 8, 1977, Claimant accepted a separation allowance; but now he asserts that his monthly displacement allowance was in arrears at various times. It appears to us that all obligated payments have been made.

In its defense to the claim, Carrier has questioned this Board's jurisdiction, asserting "mootness," absence of a "case or controversy," that jurisdiction lies under the procedures established under Section 507, and the fact that the claim was not handled in the usual manner on the property as required by Section 3, First (1) of the Railway Labor Act.

It is by no means certain that this Board has any jurisdiction in the matter. Even if we did, we would be inclined to find that the Claimant's acceptance of the separation allowance would surely blunt - and render moot - the complaint over the time lag in receipt of the monthly allowance.

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 Employees involved in this dispute are respectively Carrier and Employees 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

That the Agreement has not been violated.

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 30th day of June 1978.

