

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22166
Docket Number MS-22297

Abraham Weiss, Referee

PARTIES TO DISPUTE: (Jerry Lee Preston
(
(Consolidated Rail Corporation

STATEMENT OF CLAIM: Senior Employee (Jerry Preston) laid off while junior employee (R. T. Bowman) was called back to work. Bowman was called back on February 10, 1977 and Preston was not called back until April 18, 1977.

OPINION OF BOARD: Claimant who was furloughed January 31, 1977 was recalled to service April 18, 1977. On April 30, 1977, he filed a claim, alleging junior employee was recalled to service February 10, 1977, seeking overtime payment for February 12, 1977 and all wage loss until April 18, 1977 when he was recalled to service. Carrier, in reply, cited Rule 24(j)-- Filling Positions Temporarily-- and further said claim was not presented within the sixty (60) day time limit specified under Rule 35 -- Claims and Grievances. The record contains no evidence that above claim was further progressed on appeal under provisions of Rule 35.

Accordingly, the claim Petitioner is attempting to assert before the Board was not handled on the property in accordance with provisions of the applicable collective bargaining Agreement, as required by Section 3, First (i) of the Railway Labor Act and, therefore, is barred from consideration by the Division and will be dismissed.

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 lacks jurisdiction over the dispute involved herein; and

That the claim was not progressed on the property as required by the Railway Labor Act.

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 July 1978.

