

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23566
Docket Number MS-23831

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: { Wayne K. Spring
 { Western Maryland 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 15, 1980, covering an unadjusted dispute between me and the Western Maryland Railway involving the question:

Of my protest of the 1979 Welders Seniority Roster."

OPINION OF BOARD: Claimant Wayne K. Spring is protesting the fact that he did not receive rights as a welder when he bid a welder's job and was awarded it, but was later removed from that position. He worked the job from June 2 to June 12, 1978. On June 5, it was discovered that he had been awarded the job by mistake. Claimant thought that he should have gained rights as a welder when he was awarded the job on June 2, 1979. Carrier contends that Claimant did not obtain rights on the roster because he was placed in the job by mistake.

Claimant did not protest the action of Carrier or his failure to obtain welder's rights until February 13, 1979, more than seven months after the June 5, 1978, incident. Carrier handled the claim and on June 13, 1979, declined the claim in its entirety. Claimant and his Union Representative continued to push the claim and a number of time limit extensions were agreed to by Carrier.

On July 7, 1980, Carrier granted the General Chairman an extension of the time limit until September 1, 1980, for appeal of the case to the National Railroad Adjustment Board. Claimant did not appeal the case to the Board until September 15, 1980. Carrier, therefore, has taken the position before this Board that Petitioner's original grievance was untimely filed and that Petitioner's appeal to this Board was also late. It asks that this Board dismiss Claimant's case.

This Board has carefully reviewed the record of this case. Rule 16(c) of the Schedule Agreement specifies that all claims involving a decision of the highest designated officers shall be barred unless appealed to the appropriate division of the National Railroad Adjustment Board within nine months. Carrier denied the instant claim on June 13, 1979. It granted Petitioner two time limit extensions in order to allow him to file an appeal with the Board. The last extension was till September 1, 1980. Petitioner did not meet that deadline, but instead filed his intent to submit an ex parte submission to the Third Division on September 15, 1980. The claim was not filed within the required time limit; accordingly, we lack jurisdiction and the claim is barred.

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 Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 10th day of March 1982.

