

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24047  
Docket Number MS-24301

George S. Roukis, Referee

PARTIES TO DISPUTE: { Sheree C. Campbell  
{ Burlington Northern Railroad Company

STATEMENT OF CLAIM: "I was not used for job #012 (crew calling) even when I was available to protect this position on July 15, 16, 17, 19, 22, 23, 29, 30 and August 5, 6, 11, 12 of 1979. Instead junior employees Mr. Frank Kenealy and Mr. Dan Kenealy were used in my place. Granted., I had an investigation and was disqualified from PCI duties, but there was no mention at all of my being disqualified from any crew calling position. Thus, I feel that pay for 12 days are rightly due to me.

Please also find under caption of "Statement of Facts" that I am fighting this claim for the moral aspects involving this whole incident.

OPINION OF BOARD: The pivotal question before this Board is whether Claimant's petition to the Third Division was properly filed in accordance with the provisions of the controlling agreement and the applicable Rules of this Board. From the record submitted to this Division, it is apparent that Claimant was clearly obligated to file the instant claim with us by July 25, 1981 rather than August 23, 1981 and her late filing constituted an improper submission. The rules of this Board are uniformly applicable to the national railroad industry and implicitly indexed to the time limit provisions of the collective bargaining agreements regulating the labor relations function in the industry. Thus, unless a specific variance has been agreed upon by the parties at the situs of the appeals process to extend the time limit requirements, we cannot modify the parties agreement. By doing such we would be in effect re-writing the parties labor agreement. Moreover, in view of the extensive discussion and Carrier's explicit extension of the nine months time limit requirements of Rule 59 Paragraph C on April 28, 1981, we are compelled by the force and consistency of our decisional law to sustain Carrier's determination. The present claim is procedurally defective.

See Third Division Award Nos. 17694, 15983, 12718, 8776, 8515, 8479, 8476, 8474, et. al.

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.

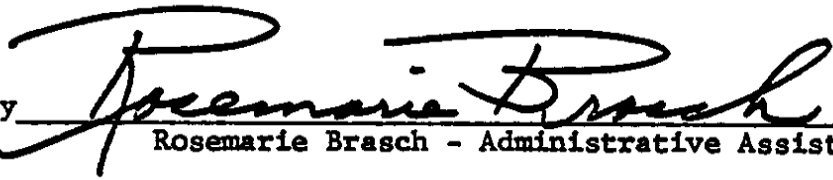
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of November 1982.

