

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24398
Docket Number MS-24502

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: { Kenneth James Kwasnik
{ Chicago, Milwaukee, St. Paul and Pacific Railroad 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 2/19/82 covering an unadjusted dispute between myself and The Milwaukee Railroad involving the question of why I am not notified prior to the recovery of an illness that I would need, as a requirement to receive sick pay benefits earned, a Doctors sickness certificate. The day of my questioning being referred to as of a claim submitted for the date of July 10, 1980."

OPINION OF BOARD: Claimant, K. Kwasnik, is a regularly assigned Train Clerk in Carrier's employ at Galewood, Illinois. On July 10, 1980, he called in sick and laid off. When he returned to work on July 13, 1980, he requested a day's sick pay. His request was denied by Carrier on July 14, 1980.

On September 10, 1980, a claim was filed on behalf of Kwasnik. That claim was denied by Carrier on October 13, 1980. The claim was then appealed to Carrier's highest officer on November 19, 1980. On January 5, 1981, it was finally denied by that officer.

Claimant served notice on the Executive Secretary of the Third Division, NRAB, on January 19, 1982, of his intent to file an ex-parte submission to the Board. That submission, in letter form, was submitted on February 17, 1982.

Carrier denied the original claim based on a time limit infraction by Claimant. It argued before this Board that Claimant's submission to the Board did not take place until more than 12 months after the final denial by Carrier's highest official. Rule 36 of the parties' agreement requires that such Claims be filed with the Board within nine months of final denial by Carrier. On this basis, Carrier requests that the claim be dismissed as untimely filed.

This Board has carefully reviewed the record of this case and must agree that Claimant's submission to this Board was untimely, since it was beyond the nine-month limit, and that therefore this claim must 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 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 26th day of May 1983.

