

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24628
Docket Number MS-24836

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Richard A. Johnson
(
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

(SEVERANCE PAY)

OPINION OF BOARD: Foregoing both discussion of and determination on the merits of the instant case, which has been carefully reviewed, the Board declines any Award thereon because of jurisdictional considerations present in the instant dispute. These considerations are several.

First of all, after the Interstate Commerce Commission granted approval for Carrier line abandonment and service discontinuance near Haugan, Montana and Mullan and Wallace, Idaho in May of 1980, given fulfillment of specified conditions, all employees affected by this course of events, including the Claimant, were thereby notified. In lieu of exercising seniority rights the Claimant requested, by letter dated August 26, 1980, severance allowance. Irrespective of the merits of such claim, the appropriate arbitral forum to have settled such a dispute is not this Board. The Arbitration Committee, established by Section 11 of the Appendix of the OREGON SHORT LINE case is the clearly designated forum to handle such a claim.

Further, even if arguendo such claim was properly before this Board, albeit this Board firmly holds that it is not, jurisdictional application would still be lacking since the Claimant did not fulfill timely appeal requirements as stipulated by the current Agreement (see Second Division Awards 6637; 7164 and 7182), nor was an appropriate conference held on property before the case reached this Board. The latter is a requirement of both the Railway Labor Act, as amended, and of Circular No. 1 of the National Railroad Adjustment Board (see Second Division Awards 1433 and 9023; Third Division Award 3023).

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 Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

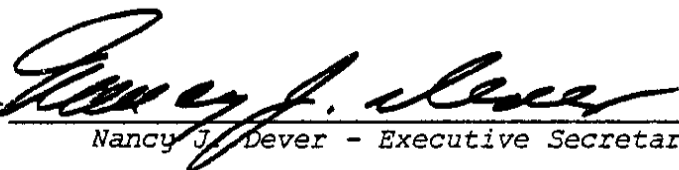
That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 13th day of January 1984.

