

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25252  
Docket Number MS-25434

Marty E. Zusman, Referee

(Richard Edward Hanson

PARTIES TO DISPUTE:

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(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

- "a. Can the Burlington Northern violate the collective bargaining agreement whenever and to whomever it wishes?
- b. Can the Burlington Northern violate Rules 40a, 40c, 40d, and 40e of the agreement with no fear of reprisal?
- c. Is the Burlington Northern the sole judge and jury as to when a person can or can not be used as foreman?
- d. Can the Burlington Northern repeatedly violate Rule 69a?
- e. Will the Adjustment Board entertain a claim from an employee of the Burlington Northern Railroad even though the claim was previously mishandled by union officials and was not filed in a timely manner?"

OPINION OF BOARD:

After a careful review of the record in this dispute, this Board must forego both a discussion of and a determination of merits because of jurisdictional considerations which are controlling in the case at bar. The considerations which govern this Board's authority, preclude its deliberations of any claim which was untimely submitted on property or for which an appropriate conference was not held before submission to this Board.

Most critical in the instant case, this dispute was untimely submitted by the Petitioner to the Organization for the handling of claims in compliance with the time limits of Rule 42 of the governing agreement. The Board can find nothing in the record as handled on property to negate the clear and unequivocal responsibility of Petitioner to process any such claim within sixty (60) days "from the date of the occurrence on which the claim or grievance is based." A review of the circumstances in the case at bar documents that Petitioner initiated a claim in 1982 for Carrier action in 1979, which he had clear knowledge of in April of 1980. By letter of October 10, 1983, Petitioner states that in 1980 "they told me that I couldn't be used as foreman and that I was restricted to section man and machine operator only." Yet, Petitioner even at that date neither objected, nor took action.

The Time Limit Rule is controlling and this Board has no jurisdiction at this date to enlarge the time within which appeals may be made (see Second Division Awards 6637, 7164, 7182 and Third Division Awards 11182 and 24836). As for an appropriate conference held on property, this 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) before such disputes are submitted to this Board. As such, this Board holds that it has no jurisdiction to consider this claim since it was untimely presented by the Petitioner on property.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearings;

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

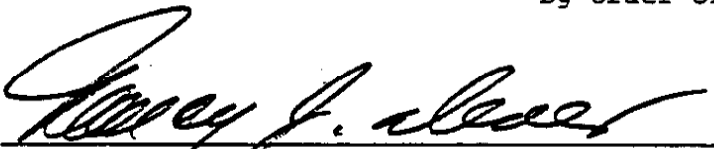
That the claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Defer - Executive Secretary

Dated at Chicago, Illinois this 31st day of January 1985.