

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25671
Docket Number MS-25903

John W. Gaines, Referee

PARTIES TO DISPUTE: (James S. Gonda
(
(Chicago, Milwaukee, St. Paul and Pacific Railroad
Company

STATEMENT OF CLAIM:

"This correspondence is sent with the intention of serving notice, as required by the rules of the National Railroad Adjustment Board, of an ex parte submission to be filed by myself, Mr. James S. Gonda, within thirty (30) days from today, said submission to be filed with the same board. The submission concerns an unadjusted dispute between myself and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company involving the question of whether I applied for severance pay in a timely manner, within sixty (60) days of the date my employment with the railroad was severed."

OPINION OF BOARD: Claimant (Petitioner herein) was displaced on July 7, 1981, and has not since been in Carrier's employment. In the Position of Petitioner as set forth in his Submission to us, he states:

"4. POSITION OF PETITIONER:

"Pursuant to the Milwaukee Railroad Restructuring Act Agreement, §9(a), petitioner filed for severance benefits in a timely manner (i.e. by August 27, 1981). The timeliness of said filing is apparently recognized by Mr. J. R. Werner, Director of Labor Relations for the railroad, as evidenced by his letter of August 31, 1983, attached hereto as Exhibit 'A'. Based upon timely filing, petitioner maintains that he is entitled to severance benefits from July 7, 1981, through the period allowed by the Restructuring Act Agreement."

Section 9(a) of the MRRRA Agreement thus invoked by Petitioner governs the present dispute because this time claim is for severance pay. It confers, expressly therein, exclusive jurisdiction on the Railroad Retirement Board for handling this subject matter. As a condition precedent, Section 9(a) sets the time limited to 60 days to file the original claim with Carrier. Examination of the record presented indicates the claim was untimely filed.

The difficulty to Petitioner in turning to this Board is we do not have jurisdiction. It is vested in an entirely different body, the Railroad Retirement Board. The claim brought here before us, must be dismissed.

Petitioner requested, and made his personal appearance at, an oral hearing held by this Board, with Referee present. Carrier appeared through its representative and Petitioner appeared pro se.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 28th day of October 1985.