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NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26165

Docket Number MS-26022

John E. Cloney, Referee

(Kyle Looney, Jr.

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation -(Amtrak)

STATEMENT OF CLAIM:

"I am seeking an award on time claim for wrongful discharge, also termination under rules 18 & 22."

OPINION OF BOARD: Claimant had been considered resigned from his position effective July 8, 1982, after an absence without notification. On January 25, 1983, after Hearing, Carrier upheld his appeal. He subsequently received a return to duty physical on February 23, 1983, and was found fit for service. Under Rules 18 and 22 Claimant then had 10 days within which to make a displacement or file furlough papers. He filed furlough papers on March 27, 1983. By letter of April 19, 1983, Claimant was advised he had forfeited his seniority by failure to comply with Rules 18 and 22.

Apparently nothing further was heard from Claimant until the Organization wrote Carrier on December 7, 1983, requesting a conference. Carrier took the position that time limits had long since passed but agreed to a conference with the understanding its position on timeliness was not waived. The conference took place on January 13, 1984, and on January 26, 1984, the Claim was denied. By letter dated November 26, 1984, Claimant served notice of his intention to file an Ex Parte Submission with this Board.

It seems clear, as Carrier contends, this case was not progressed in "the usual manner" on the property or within the prescribed time limits.

As was held in Award 23466:

"This Board is very sensitive to the sometimes difficult road an individual must travel in seeking redress Nevertheless, we cannot ignore the time limits within which grievances must be pursued, or the procedures designed to resolve disputes on the property. To do so would defeat the purposes of the Railway Labor Act and would effectively rewrite the Agreements between the parties. . . ."

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

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 29th day of October 1986.

