

The Third Division consisted of the regular members and in addition Referee Gil Vernon when award was rendered.

(Robert J. Moran
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "This letter is in reply of your letter dated April 10, 1985 in reference to case #85-3-188. Robert J. Moran, Sr. Vs Conrail (sic) to attend training school in Columbus, Ohio the week of July 18, 1983 to July 22, 1983.

My claim is for 40 hours at time and one half and 40 hours at double time from July 18-22, 1983 inclusive plus my meals and lodging on same dates. Receipts were submitted to you in my letter of April 2, 1985. The text of my argument is as follows:

- (1) Forcing Robert J. Moran to attend training school in Columbus, Ohio the week of July 18, 1983 to July 22, 1983, under appendix H of the B of R.S. Agreement. The word forcing means if I did not attend I would be on trial for insubordination.
- (2) Conrail used appendix H of the B of R.S. Agreement on their own interpretation.
- (3) The carrier violated appendix H from Section 1 through 7. Being an employee for 42 years does not incorporate me with appendix H of the B of R.S. Agreement and Conrail and I did not sign a statement to participate or pass exams under appendix H, Section 1-Rule D.
- (4) I have not been a Signal helper since 1943. On the date of July 18, 1983 I was working the position of assistant Signal Inspector of which is not covered under appendix H.
- (5) I did receive compensation for mileage plus eight hours at time and one half for travel time. I stayed at a motel and ate meals of my desire as I was not applicable to appendix H.
- (6) Being retired you can see I am fighting this case alone. I hope the information I have supplied is sufficient for the board to determine its merits."

FINDINGS:

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

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On July 18, 1983, through July 22, 1983, the Carrier conducted a Communications and Signal Training Seminar at Columbus, Ohio. The Claimant, an Assistant Signal Inspector, was required by the Carrier to attend the Training Seminar. Prior to his departure, Claimant was advanced \$344.00 for a round trip airline ticket to Columbus, Ohio. In a letter dated August 8, 1983, Claimant wrote to the Supervisor C&S requesting an additional \$194.07 for alleged expenses incurred during his week in Columbus. These expenses included lodging at the motel of his choice and meals at locations of his choice. Claimant also claimed 40 hours at the punitive rate and 40 hours at the double time rate for attending the training seminar.

In a letter dated January 13, 1984, the General Chairman appealed the claim to the Senior Director-Labor Relations. This appeal was denied by the Senior Director in a letter dated June 4, 1984. The Claimant filed his Notice of Intent to file an Ex Parte Submission with the Board on April 2, 1985.

In view of the chronology of this case, particularly the delay between the last denial (June 4, 1984) and the appeal to the Board (April 2, 1985), the claim must be dismissed. The time limits for filing a case to the Board are controlled by Rule 4-K-1(d) of the Labor Agreement, which states:

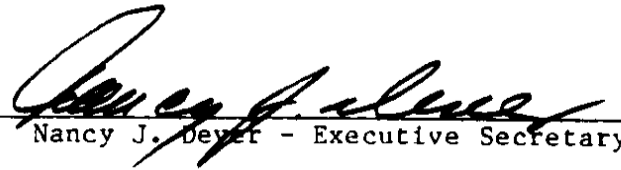
"(d) A grievance or claim denied in accordance with paragraph (c) will be considered closed unless within nine (9) months from the date of the decision of the Senior Director - Labor Relations proceedings are instituted before the National Railroad Adjustment Board or such other Board as may be legally substituted therefor under the Railway Labor Act."

Under the clear language of this Rule we have no choice but to dismiss the claim. To be timely, it would have to have been filed with the Board within 9 months of June 4, 1984. Thus, the April 2, 1985, Notice to the Board was tardy.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 30th day of March 1988.