

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

(Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station Employees
PARTIES TO DISPUTE: (
(The River Terminal Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10055) that:

1. Carrier violated the effective Clerks' Agreement when, on or about October 8, 1984, it assigned an employee not covered by such Agreement to the position of Chief Crew Dispatcher in preference to Mr. Robert Fuldauer, an employee covered thereby;

2. Carrier shall now compensate Mr. Fuldauer eight (8) hours' pay at the rate of Chief Crew Dispatcher which is in addition to any other earnings, for October 8, 1984, and for each and every day thereafter that he is denied such position."

FINDINGS:

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

The carrier or carriers and the employee 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 were given due notice of hearing thereon.

The Organization contends that Carrier violated the Agreement when on October 5, 1984, Carrier hired an outside employee to work as Chief Crew Dispatcher. It asserts that such action was in violation of Supplement Number 15. Such Supplement to the Agreement gives preference to B.R.A.C. employees over those not covered by the Agreement. The Organization argues that Claimant was fully qualified for said position having held it on an interim basis for an extended period of time.

Carrier contends that the outside employee hired for the position was appointed Chief Crew Dispatcher on September 5, 1984, with full knowledge of the Claimant. It argues therefore, that the instant claim is barred for violation of time limits. It further asserts that it was in compliance with the Agreement and that the instant claim is excessive.

In our review of this record, we find that the Organization has not complied with the time limits of the Agreement. By letter of January 3, 1985, the Carrier stated that the claim was "in violation of Rule 32 in respect to time limits." The Organization disputes the authenticity of the Carrier's notice of September 5, 1984, questions whether it was ever posted, and insists that the Claimant never saw it. The Organization does not refute, in any correspondence on the property, the alleged time limits violation. Accordingly, it stands as fact (Second Division Awards 11332, 10832, 10823).

For the above stated reason, the Board finds that the Claim is barred as untimely presented and this Board may not reach the merits of the instant case.

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 25th day of April 1988.