

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(John N. Hall
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"My claim for 58 days compensation including vacation day credits lost when I was denied my bidding and seniority rights on February 6, 1985. (Conrail System Docket No. CR-3412. New England Division Case No. 09-85-N-0037)."

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 employes involved in this dispute are respectively carrier and employes 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 March 29, 1985, Claimant wrote two letters. One was addressed to the Area Manager, Station Department, claiming thirty-seven (37) days' compensation because he had been illegally denied his seniority. The second letter was addressed to the Carrier's Regional Director of Labor Relations charging improper loss of seniority and bidding rights. On April 3, 1985, the Area Manager denied the Claim addressed to him, specifically citing Rule 45 (a) and stating he was not the Claimant's last immediate supervisor. On April 26, 1985, the Manager of Labor Relations acknowledged receipt of both March 29 letters and denied the Claim pointing out the Claims or grievances are to be presented to the employee's immediate supervisor. He did inform the Claimant that the Carrier and the Organization had agreed to restore his clerical seniority date of October 20, 1975.

The Carrier argues this Board has no jurisdiction to hear the merits of this Claim. We do not disagree. Rule 45(a) specifically provides in relevant part:

"All claims or grievances must be presented in writing by either the employee or a duly accredited representative on his behalf to the employee's immediate supervisor authorized to receive same within sixty (60) days from the date of occurrence on which claims or grievances are based, except...." (emphasis added)

Whether the Regional Manager of Labor Relations or the Area Manager, Station Department, the record establishes neither individual was the Claimant's immediate supervisor. Clearly, the Carrier raised a specific objection to this procedural violation. Accordingly, we cannot consider the merits of this Claim because it is procedurally defective.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1989.