

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29231  
Docket No. MS-28165  
92-3-87-3-874

The Third Division consisted of the regular members and in addition Referee William E. Fredenberger, Jr. when award was rendered.

PARTIES TO DISPUTE: (Terry L. White  
(Chicago, Central and Pacific Railroad Company

STATEMENT OF CLAIM:

"Seniority rights of Terry L. White with Chicago Central and Pacific Railroad Company after the merger of Illinois Central Gulf with Chicago Central and Pacific Railroad."

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.

Claimant was employed by the Illinois Central Gulf Railroad (ICG) in the craft represented by the Brotherhood of Maintenance of Way Employes (BMWE) prior to the time that certain ICG rail lines located in Illinois, Nebraska, and Iowa were required by the Chicago Central and Pacific Railroad Company (CCPR). Pursuant to an Agreement between the BMWE and the Carrier, former ICG employees working for the CCPR were to retain certain of their seniority rights. Claimant maintains that after the acquisition, he was not given the seniority rights to which he was entitled, which is the basis of the Claim in this case.

The Carrier denied the Claim. The Organization appealed the denial to the Carrier's highest designated officer. However, the dispute remains unresolved, and it is before this Board for final and binding determination.

The Carrier interposes two jurisdictional objections to the Claim, either of which, if valid, would bar our consideration of the Claim on its merits.

The Carrier alleges that nothing in the record establishes that there was a conference held on the property with respect to the Claim. Our review of the record confirms the Carrier's contention. Section 3, First (i) of the Railway Labor Act, 45 U.S.C. § 153, First (i) requires such a conference and, as Circular No. 1 of this Board clearly states, we lack jurisdiction to consider any Claim which has not been the subject of a conference on the property. See Third Division Awards 27482 and 26867, Second Division Award 7155, and First Division Award 23883.

The Carrier also maintains that the Claim in this case is untimely under Rule 36(c) of the Agreement, which bars all Claims not brought before the appropriate Division of the Board within nine months from the date of the denial of the Claim by the highest designated officer of the Carrier. The Carrier's Vice President - Engineering, the highest officer designated to handle the type of Claim involved in this case, denied the Claim on January 16, 1987. The notice to the Board of intent to file the Claim was dated December 21, 1987. Accordingly, the notice did not comply with Rule 36(c). This Board consistently has held that a Claim which is not handled on the property within the time limits of the applicable schedule Agreement is barred from consideration by this Board. See Third Division Awards 27663, 27502, 24694, 22133 and 22075.

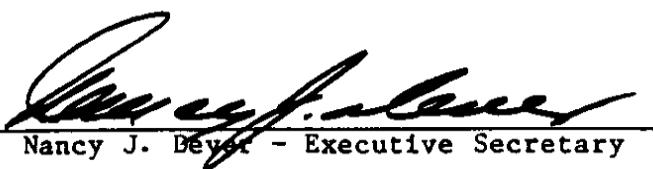
In view of the foregoing we must conclude that the Board lacks jurisdiction over this claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 18th day of May 1992.