

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31374
Docket No. MW-32035
96-3-94-3-393

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier omitted the name of Mr. W. J. Shutty from the Cook's 1993 East Regional Production Units Seniority Roster and thereafter failed and refused to correct same (System Docket MW-2993).
- (2) The Agreement was violated when the Carrier erroneously listed the name of Mr. W. B. Lepsch with a seniority date of November 4, 1987 on the 1993 East Regional Production Units Track Seniority Roster and thereafter failed and refused to correct same (System Docket MW-2991).
- (3) As a consequence of the violation referred to in Part (1) above, Claimant W. J. Shutty shall have his Cook's seniority date of November 4, 1991 restored to its appropriate roster standing on the East Regional Production Units Seniority Roster.
- (4) As a consequence of the violation referred to in Part (2) above, the East Regional Production Units Track Seniority Roster shall be corrected to show Claimant W. B. Lepsch with a Trackman's seniority date of November 11, 1976."

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 employee 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.

The Organization's claim before this Board involves two unrelated seniority cases. Carrier, however, in its Submission only addresses the matter involving Claimant Shutty. Accordingly, the Board is compelled to sustain the claim of Lepsch, as presented.

With regard to Shutty's claim, Carrier contends correctly that he did not timely file a roster protest in accordance with Rule 4, Section 6(b). Because of this his claim must be dismissed as untimely. With this the Board agrees. For a roster protest to be entertained it must be filed within the time constraints provided in the parties' Agreement. If it is not, it cannot be considered timely and must be dismissed.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of February 1996.