

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31737
Docket No. SG-32252
96-3-95-3-58**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (AMTRAK)**

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corp. (NRPC-S)

Claim on behalf of D. L. Kegriss, R. L. Byus Jr., M. F. Cremen, M. D. McDonough, D. P. Wilson Jr. and L. C. Siperek Jr., protesting the improper seniority roster dates assigned to D. R. Congleton, account Carrier violated the current Signalmen's Agreement, particularly Rule 5 and Appendix 'M', when it assigned Mr. Congleton seniority in the Maintainer, Signalman, Assistant Signalman and Helper classes. Carrier's File No. NEC-BRS(W)-SD-659. General Chairman's File No. RM2576-106-494. BRS File Case No. 9428-NRPC(S)."

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 were given due notice of hearing thereon.

On February 28, 1994, the Carrier posted a seniority roster for the Lancaster Repair Shop listing employee D. R. Congleton with a seniority date of August 20, 1990 in the Electronic Technician, Maintainer, Signalman, Assistant Signalman and Helper classes. On March 5, 1994, the Organization submitted a roster protest on behalf of Claimants contending that there was an error in Congleton's seniority dates. The record further shows that Congleton's seniority date of August 20, 1990 first appeared on the 1991 roster and remained with that date on rosters for the succeeding years.

Rule 9(c) states:

"An employee, or his union representative, shall have ninety (90) calendar days from the date his name first appears on the seniority roster to protest, in writing, to the Division Engineer, his seniority date or relative ranking thereon

If no written protest is made within the ninety (90) calendar day period, no protest shall be entertained, unless the employee's seniority roster date of his relative ranking is changed from that first shown"

The Organization's 1994 protest effectively challenges Congleton's seniority date which was established on the 1991 roster. That protest is clearly untimely under the 90 day requirement of Rule 9(c). See Third Division Award 27313:

"Agreeing with the Organization's argument would result in potential chaos for the crucial rights and obligations established by the previously posted lists. ... On balance, that element of stability requires in this case that the employee who sat on his rights be precluded from protesting the loss of those rights when that protest comes at such a late time."

See also, Third Division Awards 31364, 31134, 29234, 29116, 28467; Second Division Awards 12026, 7414; and Fourth Division Award 4625.

The claim must therefore be dismissed.

AWARD

Claim dismissed.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 24th day of October 1996.