

PUBLIC LAW BOARD NO. 3308

Award No. 14

Case No. 14

**PARTIES
TO
DISPUTE**

Brotherhood of Maintenance of Way Employees

The Atchison, Topeka and Santa Fe Railway Company

**STATEMENT
OF CLAIM**

"Claim that former Illinois Division Trackman S. L. Hettinger be reinstated with seniority, vacation, all benefit rights unimpaired and paid for all wage loss and/or otherwise made whole, account the claimant's name being improperly removed from the seniority roster for failure to file his address after he was force reduced."

FINDINGS

Upon the whole record, the Board finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimant was employed as a trackman on Carrier's Illinois Division.

In a letter dated November 25, 1981, Claimant was advised that:

"This is to confirm that close of work November 27, 1981 you are off-in-force reduction, subject to recall per Rule 2 Section C of the Maintenance of Way Agreement in part as follows:

'Employee laid off in force reduction shall retain their seniority provided they (1) file their addresses in writing within fifteen (15) calendar days after being displaced; and (2) promptly report in writing any subsequent changes in their addresses. The reporting required herein must be addressed to the Division Engineer.

Failure to meet any of the requirements as above specified, failure to report on the date indicated

in the notification of recall, not to exceed fifteen (15) calendar days from date of notification of recall forwarded to the employee's last known address, without a satisfactory reason, will result in forfeiture of seniority in the class where recalled'."

In a letter dated December 21, 1981, Claimant was further advised:

"In accordance with Rule 2, Section C of the Agreement, Brotherhood of Maintenance of Way Employees, your name is being removed from the Illinois Division Trackman Seniority Roster effective December 21, 1981 for failure to file your address in writing within fifteen (15) calendar days after being displaced."

The claim now before the Board was filed by the Organization in a letter dated February 24, 1982.

Initially the Carrier takes the position that the dispute was not timely filed in accordance with the provisions of Rule 14, Section (a)(1) of the Agreement reading in part:

"(a) All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the company authorized to receive same, within sixty (60) days from the date of the occurrence on which the claim or grievance is based xxx."

The Board holds that the date on which the time limit began to run, in the claim now before it, was the date of Carrier's letter dated December 21, 1981. Since the dispute was not initiated with the Carrier until the Organization's letter of February 24, 1982, it was beyond the sixty (60) day requirement of the Agreement.


The Board finds Carrier's procedural objection well founded. It cannot ignore or refuse to enforce valid objections because they are of a technical nature. Many decisions of various Divisions of the National Railroad Adjustment Board have held that we are without jurisdiction to hear claims and/or grievances which have not been presented and/or progressed in accordance with contractually imposed time limits.


For the reasons hereinabove stated, we are precluded from considering the merits, therefore, the claim must be dismissed.

Even if we were able to consider the merits, the claim is without Agreement support. The record reveals that Claimant did not file his address within fifteen calendar days as required by the Agreement.

AWARD Claim dismissed.


Carrier Member


Clarence H. Harrington
Neutral Member


Organization Member

Dated at Chicago, Illinois
March 1, 1983