

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

v.

BURLINGTON NORTHERN RAILROAD

STATEMENT OF CLAIM

1. The Carrier violated the Agreement when it improperly closed the service record of B&B Carpenter M. Monear (System File P-P-637/AMWB 86-05-27B).
2. The Claimant shall be reinstated with seniority and all benefits unimpaired, including, but not limited to, promotions he could have obtained, vacation qualifications and health and welfare benefits, and he shall be compensated for all wage loss suffered, including overtime.

FINDINGS

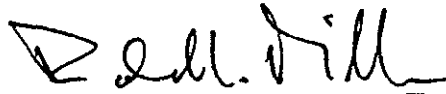
On January 31, 1986, the Claimant, Mr. Mark E. Monear, was notified that his position would be abolished, effective February 7, 1986. In accordance with the provisions of Rule 9, Mr. Monear had ten (10) calendar days to submit the Rule 9 form. He did not attempt to submit Form 15364 until February 19, 1986, the twelfth (12th) day following his layoff. The record of the case indicates that Mr. Monear had been furnished a copy of the Working Agreement containing Rule 9. During prior layoffs in 1981, 1982 and 1985, Mr. Monear submitted the required forms in a timely manner. Therefore, this Board must conclude that Mr. Monear knew or should have known of the Rule 9 procedure, including the time restrictions.

The ten-day provision of Rule 9 is self-actuating. This Board finds no mitigating circumstance which should serve to stay the self-executing language of Rule 9. The Organization has not convincingly established that the Carrier has been inconsistent in the application of the time limit requirements of Rule 9, or that the "clarity" of that rule has been diminished by the Carrier's past actions.

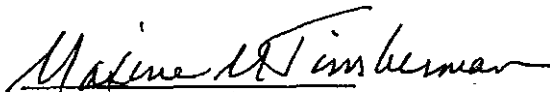
The record of this case provides no basis for the self-executing provision of Rule 9 to be set aside.

AWARD

Claim denied.



Ronald L. Miller  
Chairman and Neutral Member



Maxine M. Timberman  
Carrier Member



Karl P. Knutsen  
Organization Member

4-5-88

Date