

NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISIONAward No. 24543  
Docket No. 44255  
95-1-94-1-S-6662

The First Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

PARTIES TO DISPUTE: (United Transportation Union  
(  
(SOO Line Railroad Company

STATEMENT OF CLAIM:

"Formal appeal in behalf of Portage Trainman Lyle R. Schmidtke for May, 1992 protection claim which was conferenced on October 5-6, 1993. (UTU File: 36-B (590) - Carrier File: 3-00142-038)."

FINDINGS:

The First 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.

The Organization argues in this case that the Carrier improperly deducted a junior conductor's earnings from his protected rate. The Claimant is a protected employee under the July 1, 1985 Employee Protective Agreement.

The Carrier argues the case is improperly before this Board for two reasons. The first reason is that Section 13 of the EPA provides for special arbitration under the terms of the New York Dock Protective Conditions. Secondly, the claim was not filed before this Board in a timely manner under Article 35, "Time Limit On Claims," of the Schedule Agreement. It avers the claim was declined after conference on May 4, 1993, and that the case was not submitted to this Board until October 4, 1994, well after the one year time limit under Article 35.

The Carrier is correct in both instances. This Board has consistently held that when Agreements have special provision for handling disputes the parties are obligated to follow those procedures. Such Agreements, in most cases, do not require the parties to comply with the same rules as this Board is governed.

However, even if the Board was to find differently, the Organization violated Article 35, by not filing the claim in a timely way.

AWARD

Claim dismissed.

ORDER

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

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of First Division

Dated at Chicago, Illinois, this 21st day of November 1995.