

## NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22075  
Docket Number MS-22199Robert A. **Franden**, Referee

(Richard S. Cattane

PARTIES TO DISPUTE: (  
(The Baltimore and Ohio Railroad CompanySTATEMENT OF CLAIM: I have written to: R.K. **Pullem**, H.C. Crotty,  
E.L. **Moser Jr.**, V.F. **Maimone**, Fred **Wurpel, Jr.**,  
L.N. Burks.

My claim is, I believe that I should still have my foreman rights on the former Whg. Div. which includes territory from **Lorain, Ohio** to **Kenova, W.Va.**

OPINION OF BOARD: By Agreement dated August 7, 1975 with the representative organization, Carrier made extensive rearrangements of its seniority districts as they were applicable to its employes of the Maintenance of Way Department. **One** of the provisions of this August 7, 1975 Agreement involved the right of choice of certain affected employes to (1) retain their seniority in the district where found at the time of the Agreement, or (2) to transfer their Maintenance of Way Department seniority to one of the newly arranged seniority districts. Claimant in this case elected on September 27, 1975 to retain his seniority on the Monongah seniority district.

Subsequently, on or about December 8, 1975, claimant indicated a desire to displace an **employee** in the foreman's class who was working in a position of the former **Monongah** Division which was transferred by the terms of the August 7, 1975 Agreement to the Akron Division. Claimant was denied the right to exercise seniority in the foreman's class because he had elected to retain his M of W seniority on the Monongah Division. Claimant appealed this decision to and including Carrier's highest appeals officer who denied his claim by letter dated January 23, 1976.

Claimant's Notice of Intention to this Board is dated May 9, 1977.

'It is apparent from the record that the instant claim was not filed with this Division of **the** National **Railroad** Adjustment Board within the nine (9) month period following decision of Carrier's highest **appeals** officer as required by the applicable **Rules** Agreement. Therefore, **we** lack jurisdiction to handle this claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board lacks jurisdiction over the dispute involved herein, and

That the claim be dismissed.

A W A R ' D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1978.