

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

(Randall L. Hupp  
PARTIES TO DISPUTE: (  
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

"Whether Claimant is entitled to recover for all expenses and damages associated with the misapplication of the Collective Bargaining Agreement between BRAC and said Carrier and resulting from the transfer of Mr. Hupp to Seligman, Arizona".

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

On October 22, 1984, the Organization and the Carrier signed an Implementing Agreement which essentially provided that the Claimant would be offered a Caller-Janitor position located at Seligman, Arizona. The Agreement clearly stated that it was the choice of the employee to accept or decline the position. However, once the choice was made, it was "irrevocable." The Agreement mainly provided: (a) that if the employee elected to transfer to Seligman, his seniority would be dovetailed in his new seniority district; (b) for a number of other elements concerning displacement and monetary rights associated with the transfer; and (c) cited pertinent portions of the parties' Agreement which were relied upon in this matter. On October 30, 1984, the Claimant signed an Election Sheet appended to the aforementioned Implementing Agreement, accepting the position in Seligman. Subsequently, he moved from Pueblo, Colorado to Seligman.

By letter, dated January 30, 1985, the Claimant filed a detailed claim with the Carrier alleging a number and variety of violations of the parties' Agreement. Following a declination of the claim by the Carrier's Superintendent, the Claimant submitted his claim directly to the Third Division.

The Board has carefully reviewed the record before us and we conclude that we must dismiss the claim for lack of jurisdiction. Essentially, this dispute involves interpretation of the February 7, 1965 Agreement, which provided that any dispute arising under its terms would be submitted to Special Board of Adjustment 605. Moreover, the matter at issue was not conferenced on the property as required by the Railway Labor Act. Therefore, this matter is not properly before us.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 17th day of May 1988.