

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

PARTIES IN DISPUTE: (G. H. Reiss and J. M. McMahon
(Union Pacific Railroad Company)

STATEMENT OF CLAIM: "The unadjusted dispute between us and the Union Pacific Railroad involves moving expenses under Appendix 14 of the current agreement as ammended (sic) November 1, 1980. Appendix 14 was also ammended (sic) in Article 12 of the National agreement dated January 8, 1982."

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.

After a review of the record, it is the conclusion of the Board that the claim must be dismissed because of a time limit violation.

Rule 41(c) requires that any claim which is not progressed to the Board within 9 months of the highest designated officer's written declination is barred. Rule 41 (c) states:

"The requirements outlined in Sections (a) and (b), pertaining to appeal by the employe and decision by the Carrier, shall govern in appeals taken to each succeeding officer, except in cases of appeal from the decision of the highest officer designated by the Carrier to handle such disputes. All claims or grievances involved in a decision by the highest designated officer shall be barred unless within nine (9) months from the date of said officer's decision proceedings are instituted by the employe or duly authorized representative before the appropriate division of the National Railroad Adjustment Board or a system, group or regional board of

adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. It is understood, however, that the parties may by agreement in any particular case extend the nine (9) months' period herein referred to." (emphasis added)

In this case the Carrier's highest officer declined the claim on December 18, 1984. On June 5, 1985, the General Chairman wrote the Director of Labor Relations requesting a 60-day time limit extension of the nine-month period for appeal. The extension was granted and this extended the nine-month period through November 17, 1985. On November 8, 1985, the General Chairman requested a second 60-day time limit extension in the dispute, extending the time limit through January 16, 1986. The extension was granted.

However, the Claimants did not give notice to the Board of their intent to file an Ex Parte Submission until February 8, 1986. To be timely it had to be submitted on or before the expiration of the time limit on January 16, 1986. This constitutes failure to handle the claim in the "usual manner" as set forth in Section 3, First (1) of The Railway Labor Act, which states:

"(1) The disputes between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes."

It is well established that our jurisdiction is limited to those cases handled in the "usual manner." Such a failure compels the Board to dismiss the claim. See Third Division Awards 23548, 23566.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deves - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of September 1988.