

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30917
Docket No. MS-30295
95-3-92-3-44

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(Charles E. Sanders
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an [sic] sue within thirty days covering an unadjusted dispute between Conrail railroad and myself. Conrail denied me the right to displace a junior man on a Class (1) one job, on January 4, 1988 at Avon yards. I made my intentions known to R. Whitaker Supv. of Avon yard, that I was bumping Joe Williams, 'He & Mr. Kinkbeil Assistant Div.Eng. told me I was not able to bump Joe', because of a letter that Joe had, made up! So from 1-4-1988 until I am allowed to displace Mr. Williams I ask for compensation."

FINDINGS:

The Third 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 waived right of appearance at hearing thereon.

On December 30, 1987, the Claimant's position was abolished. The Claimant was furloughed on January 4, 1988. A claim was filed on February 2, 1988 asserting the Carrier violated Rule 4, Section 6 of the controlling Agreement. The Carrier denied the claim by letter dated February 26, 1988 indicating another employee was senior to the Claimant. The claim continued to be processed, but ultimately the Carrier's Senior Director of Labor Relations denied the claim by letter dated September 19, 1988.

By letter dated December 27, 1991, the Claimant served notice of his intention to appeal the Carrier's denial. Rule 26(d) of the Agreement requires such an appeal to be made within nine months from "... the date of the decision of the Senior Director - Labor Relations." It is all too obvious the Claimant's appeal did not comply with this specific provision. An appeal to the Board had to be filed no later than June 19, 1989. The claim must be dismissed.

See First Division Award 24132, Second Division Award 12344, and Third Division Award 25326.

AWARD

Claim dismissed.

ORDER

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

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 8th day of June 1995.