

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISION

Award Number 3947
Docket Number 4043

PARTIES TO DISPUTE: A. W. Moseley
Southern Pacific Transportation Company

STATEMENT OF CLAIM: Union Violations: Violation of Rule 7 (a), 7 (c) and failure to properly represent claimant.

Violation of Rule 7 (a): Union and company permitted one of its members to be on two seniority lists in contravention of said Rule.

Violation of Rule 7(c): Union failed to advertise new vacancy or position in contravention of said Rule.

Willful failure to properly represent or even represent claimant despite being in possession of all the facts and even admitting to same. Union in bad faith by not waiving 60 day rule for filing grievance when the reason for not filing was claimant's lack of knowledge of a seniority list due to non-advertising of same which was due to neglect and/or purposeful omission of advertising of seniority lists in connection hereto.

Company violation: Same violation of all of the above in addition to relying on claimant's resignation which was a part of the company's decision to consider the above violations only in a cursory fashion. Also there was never an investigation into the non-advertising of said seniority list which is the basis for union's errors and the company's reliance of same to reach its decision of May 27, 1981.

OPINION OF BOARD: It is quite clear that the claim presented to the Board was not filed and progressed in the usual manner on the property as required under Section 3, First (i) of the Railway Labor Act, as amended. The claim must be dismissed without consideration of the merits. See Fourth Division Awards 2099, 3511 as well as 2485 and 3316.

FINDINGS:

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

The Carrier and the 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.

The parties to said dispute were given due notice of hearing thereon.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:


Nancy J. Dever
Acting Executive Secretary

Dated at Chicago, Illinois, this 9th day of November 1982.