

**Employee Service
Decision on Reconsideration
JWD**

This is the decision on reconsideration of the Railroad Retirement Board of the claim made by JWD for creditable railroad service for the years 1980 through 1987.

In a letter dated June 26, 2006, addressed to the Portland, Oregon district office of the Railroad Retirement Board, JWD requested that his records be corrected for the years 1980 through 1987 to give him credit for railroad service for those years rather than social security wages. JWD explained that he was hired as an attorney in the law office of the Atchison, Topeka and Santa Fe Railroad (ATSF) (a covered employer) in Topeka, Kansas on April 1, 1969. JWD stated that all of his duties involved interstate commerce, i.e., the defense of the railway company in state and federal litigation.

JWD advised that on January 1, 1980, the personnel of the ATSF law department in Topeka were transferred from the ATSF payroll to the payroll of Santa Fe Industries, Inc., the parent company of ATSF. JWD stated further that in January 1984, Santa Fe Industries was merged into the Santa Fe Southern Pacific Company, and the legal personnel in the Topeka office were again transferred to the payroll of Santa Fe Southern Pacific. JWD stated that throughout this period, his employment duties remained the same and were exclusively for the benefit of the railroad company.

In a letter dated August 17, 2006, the Board's Chief of Compensation and Employer Services denied JWD's request because the companies to which JWD was transferred from the ATSF are not covered by the Acts administered by the Railroad Retirement Board.

Section 9 of the Railroad Retirement Act (RRA) and section 211.16(a) of the Board's regulations require that any claim for additional service and compensation must be submitted within four years of the last day of February of the year following the year for which the service and compensation is sought. Under section 9 of the RRA and the Board's regulations, the time period has passed within which the service and compensation sought for the period 1980 through 1987 may be credited.

Accordingly, the Board affirms the denial of credit for service for the period from 1980 through 1987 because the request is untimely. Cf. Gatewood v. Railroad Retirement Board, 88 F.3d 886 (10th Cir. 1996).

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever