

The Second Division consisted of the regular members and in addition Referee Ronald L. Miller when award was rendered.

(Michael Lee
PARTIES TO DISPUTE: (
(Port Authority Trans-Hudson Corporation

STATEMENT OF CLAIM:

Petitioner seeks review of termination of employment effective October 17, 1986, by Carrier for alleged unsatisfactory performance and attendance during a probationary period.

Petitioner asks that the Board make determination on the following issues:

1. Was the discharge for just cause?
2. Was the Petitioner properly subject to a 60-day probationary period even though his original date of hire with the Carrier was March 31, 1981, and he was continuously employed in various capacities from that date?
(Carrier cites BRC USC Contract Article IV, Section VII "new employees shall be on probation for a period of 60 days after commencing employment. During this period they shall be subject to discipline, including dismissal, without following the procedure enumerated in Article III, Section II").

FINDINGS:

The Second 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 were given due notice of hearing thereon.

The Claimant filed a Claim directly with this Board. The record of this case indicates that no conference pertaining to this claim was held on the property prior to its submission to this Board.

This Board cannot assume jurisdiction in this case. Sections 152, Second and 153, First (i) of the Railway Labor Act (and Circular No. 1 of the National Railroad Adjustment Board) require that all disputes be considered in conference between the parties before the matter is referred to a Board. The intent of Congress was to encourage the parties to settle on property, but failing that, to develop a record of facts, evidence and arguments that would provide the basis for appeal.

A conference on the property was not held in this case, therefore, this Board is barred from deciding the matter on its merits (also see Second Division Award 11416).

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 19th day of October 1988.