

The Second Division consisted of the regular members and in addition Referee Louis Norris when award was rendered.

Parties to Dispute: { Mr. Jack A. Nicholas
 {
 { Missouri-Kansas-Texas Railroad Company

Dispute: Claim of Employees:

I allege that I have been unjustly denied re-employment by the M. K. & T. Railroad and have been told that under no circumstances would I be rehired. There is no substantive basis upon which to base this refusal of re-employment. I further request that I be rehired when a position becomes available and that the record be made clear that I have done nothing seriously wrong that would make me unfit for employment elsewhere. The refusal to re-employ me without explanation has made it look like I was a bad employee or a risk to the railroad, which is untrue, and thus has made me a suspect in any attempts to gain re-employment.

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 employe 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 basic facts here involved are not in dispute. In essence, these are that Claimant was employed by Carrier on July 1, 1974 as a non-journeyman Carman in accordance with the provisions of the controlling Agreement. Effective September 21, 1974, Claimant was reduced from service in a general force reduction, at which time his employment relationship with Carrier terminated.

Carrier contends that this Board is without jurisdiction in this matter since the claim was not timely presented to Carrier Officer authorized to receive claims initially; nor was it timely appealed on the property as required by the Agreement. These contentions are not disputed by Claimant.

The record evidence conclusively establishes that the claim which Petitioner is attempting to assert before this Board was not handled on the property of Carrier in accordance with the provisions of the applicable collective bargaining Agreement; nor in compliance with Circular No. 1 of the National Railroad Adjustment Board; nor as required by Section 3, First (i) of the Railway Labor Act.

Accordingly, the instant claim is barred from consideration by the Division and must be dismissed.

See Second Division Awards 6829 (Zumas), 6874 (O'Brien), 6810 (Zumas), 6941 (Twomey), 6953 (no Referee), 6555 (Lieberman), 6520 (Franden), 6506 (Lieberman), 6496 (McGovern), 6484 (Shapiro) and 6981 (Wallace), among many others.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of March, 1976.