

C O R R E C T E D

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 7156
Docket No. 6989-I
2-PCT-I-'76

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (John W. Kowalczyk
(
(Penn Central Transportation Company

Dispute: Claim of Employees:

1. Violation of Rule 33 and 34 for which I was not given a Hearing, and am now Unemployed for over a Year.
2. Violation of Rule 29 and 84 for which I have over 134, Time Claims totaling around 90,000.
3. Discrimination, Harrasment, and Job Suspension for refusing to do another Crafts Work, in Violation of the Blacksmiths Work Rule 84.
4. Violation of Rule 16 on Bulletin Notices.
5. Violation of Rule 23 Pay and Vacations.
6. Violation of Mr. Moores, 20 Percent System Wide Reduction of Forces of which No Altoona Blacksmiths were Let Go.
7. Violation of the Merger Agreement which States that No Protected Employee can ask for or be given his Severance Pay Unless His JOB is and Has been Abolished. Yet my Helper John Giasullo was Forced to take his Severance Pay by Mr. Higgins when I the Local Chairman was not there, and was told to either Sign or Do Not come in the following Monday as you will not get Payed. The section that States if an Employees Job was Posted as Abolished at one Point and he was Transferred to another Point, and his Job was again Posted as Abolished He would then be sent back to his Last Place of Employment, of which I did report to Mr. Lydon and had him call Mr. Higgins, and was told to go Home.
8. Violation of the Washington Agreement which--Call for 60 Percent of your Pay will Full Retirement and Hospitalization Insurance Credits for 5 Years of which neither My Helper or I were asked as we were the last of the New Haven Blacksmiths, and Helpers and therefore entitled to the Washington Agreement.

Findings:

The Second 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 were given due notice of hearing thereon.

Review of the record clearly shows that the claim the Petitioner is attempting to assert before this Board was not handled on the property of the Carrier in accordance with the provisions of the applicable collective bargaining agreement and as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. Further, certain aspects of the Petitioner's claim are covered for any applicable remedy under the Merger Protective Agreement exclusively. The Petitioner's claim is, therefore, barred from consideration by this Board.

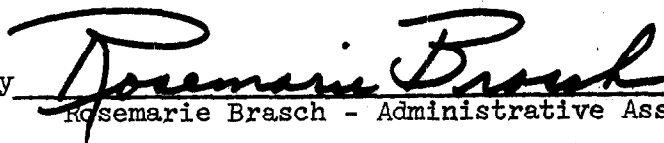
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of October, 1976.

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

Room 2006

220 SOUTH STATE STREET, CHICAGO, ILLINOIS 60604

December 1, 1976

AWARD NO. 7156

Mr. John W. Kowalczyk
47 Dedham Parkway
Dedham, Massachusetts 02026

Dear Sir:

Referee Herbert L. Marx, Jr. has transmitted to this Division of the National Railroad Adjustment Board, your letter dated November 5, 1976; also the National Labor Relations Board has transmitted to this Division your letter of November 4, 1976, addressed to President Gerald R. Ford, all in connection with Second Division Award No. 7156, Docket No. 6898-I.

The above Award clearly delineates the reasons for dismissal of your claim, namely, that it was not handled on the property of the Carrier in accordance with the provisions of the applicable collective bargaining agreement and as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board.

This Division's letter of August 28, 1974, addressed to you, outlined the required procedure in submitting cases for adjustment. Included therein was a quotation of Section 3, First (i) of the Railway Labor Act which provided that all grievances "shall be handled in the usual manner up to and including the chief operating officer of the Carrier." Also attached to that letter was a copy of Circular No. 1 for your information and guidance. That letter also quoted paragraphs outlining how submissions should be prepared.

Very truly yours,

Executive Secretary
National Railroad Adjustment Board
By Order of Second Division

By Rosemarie Brasch
Rosemarie Brasch
Administrative Assistant

cc: Referee Herbert L. Marx, Jr.

Mr. John C. Truesdale
Executive Secretary
National Labor Relations Board
Washington, D. C. 20570

rb

Referee

Herbert L. Mark Jr.

Nov. 5, 1976

AWARD-7156

DOCKET NO. 6898-1

2 PCT-1-76

Dear sir

Enclosed on the back of this letter is your statement and award. Now from one Page 2, you as the Board Chairman to have looked at all evidence, yet as you do know you didn't look on or at one single bit of correspondence showing my proof, ^{that I had} and by telling me it would not be necessary, led me to believe you would make an honest decision, for as you know I did ask why a recording secretary was not present further more ~~and~~ it was a closed union that my General Chairman should have been there. And until my copies of proof are looked at as your Chairm. I demand an immediate retraction of this award, as it is based on one big flase statement.

Copy

Respectfully
John W. Nowakoff
47 Redham Blvd
Redham, Mass. 019



NATIONAL LABOR RELATIONS BOARD

Washington, D.C. 20570

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SECOND DIVISION

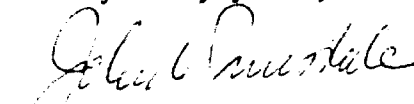
November 16, 1976

Mr. E. J. Haesaert
Vice Chairman
National Railroad Adjustment Board
Second Floor, Room 2028
220 South State Street
Chicago, Illinois 60604

Dear Mr. Haesaert:

The enclosed correspondence from John W. Kowalczyk was referred to the National Labor Relations Board for consideration. A review of the materials submitted by Mr. Kowalczyk indicates that the matter he complains of does not come under the jurisdiction of this Agency. In these circumstances, I am forwarding it to the National Railroad Adjustment Board for its consideration. Mr. Kowalczyk has not been advised of this referral.

Very truly yours,


John C. Truesdale
Executive Secretary

Enclosure


NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONO R D E R

To accompany { Award No. 7156
{ Docket No. 6989-1

Mr. John W. Kowalczyk
47 Dedham Parkway
Dedham, Massachusetts 02026

The Division, after consideration of the docket identified above, hereby orders that an award payable to the petitioner should not be made. The claim is dismissed as set forth in the Award, a copy of which is attached and made a part of this order.

Executive Secretary
National Railroad Adjustment Board
By Order of Second Division

By 
Administrative Assistant

Mr. J. R. Walsh, Senior Director
Labor Relations
Consolidated Rail Corporation
(Formerly Penn Central Trans. Co.)
Room 1734 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104