

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

(L. C. Walker
Parties to Dispute: (
(Illinois Central Gulf Railroad Company

Dispute: Claim of Employees:

I, L. C. Walker, was hired by Illinois Central Railroad, January 24, 1952 (Johnston Car Shop, Memphis Tennessee). I was layed off October 1957 and was called back to work in August 1963. During the long and tedious layoff, my family and I endured much hardship. This prompted me to seek work elsewhere. In the same year, 1957, I went to Chicago in hope of getting work there, (Illinois Central Railroad), but I was always told that they were not hiring, which violated my rights according to the System Federation No. 99 rule # 30, because they did hire new people while I seeked 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 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.

In the case before us, Petitioner contends that Carrier violated his recall rights under the Agreement between System Federation No. 99 and the Illinois Central Gulf Railroad. He asserts that Carrier failed to comply with the lay off and recall provisions of the applicable labor agreement when during his extended layoff from October 1957 until August 1963, Carrier hired new employes to perform similar or comparable work.

Carrier contends that the dispute is improperly before the Board since the asserted violations occurred approximately twenty five (25) years ago and well outside the prescribed time limits for processing grievances under Rule 37 of the controlling Agreement. Moreover, Carrier argues that Claimant failed to progress this claim on the property in the manner required by the Railway Labor Act, Section 3(a) and Section (2), First, Second, and Sixth, since Claimant bypassed the utilization of the established grievance appeal procedures and presented the instant claim directly to the Board. It avers that the Railway Labor Act and the Collective Agreements negotiated pursuant to its explicit provisions require that the parties to a dispute make every reasonable effort to resolve it on the property and correlatively require a conference before a claim is presented to the National Railroad Adjustment Board. In particular, it asserts the pertinency

of Section 3. First (i) of the Act, which stipulates the way a claim should be handled. This provisions states:

"The dispute between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes, but failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes."

In addition, Carrier contends that the claim was not filed within the sixty (60) day time limit of Rule 37, which renders it moot and cited several Divisional Awards to affirm its position. It maintains that the claim is improperly before the Board and urges that it be dismissed.

In our review of this case, we concur with Carrier that the claim has no judicial standing with the Board. The facts as presented unequivocally show that the claim was not filed and progressed on the property consistent with the time limits and appeal procedures of the applicable collective Agreement, but it was belatedly filed directly to the Board some twenty five (25) years after the alleged grievance occurred. As a creature of the Railway Labor Act, as amended, we are statutorily constrained to observe strictly the requirements that disputes be handled in the usual manner on the property before they are appealed to this Board. We are not a court of equity or an omnibus forum for hearing all types of disputes; we are an appellate body whose essence and jurisdiction flows from the Railway Labor Act. Since Claimant has not filed and progressed the claim in the manner required by the Railway Labor Act, we are estopped from considering its merits. The claim is void ab initio. The usual manner of conferring with Carrier was not complied with and the claim was filed well beyond the required time limits. (For decisional authority, see Second Division Award Nos. 514, 3959, 3332, 3331, 1680, 762, 731. These awards involve this Carrier. See also Second Division Award Nos. 7453, 6884, 6496, 6506, 6810, 6829, 6874, 6980, 6637 and 5998.)

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of May, 1984