

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that:

1. Carrier's action in removing from its service Mr. Virgil E. Coley, Ticket Stock Clerk in the Passenger Traffic Department at Savannah, Ga., on June 8, 1948, was violative of rules of our Agreement with the Carrier effective September 1, 1944 that governs the employees' hours of service and working conditions.
2. Mr. Coley be reinstated to service of Carrier with seniority rights unimpaired and paid for all wage loss sustained from date of his improper removal from service on June 8, 1948.

OPINION OF BOARD: Claimant held the position of Ticket Stock Clerk in the Passenger Traffic Department at Savannah, Georgia. The position was one requiring the giving of a bond. Claimant was removed from service on June 8, 1948 and he immediately demanded an investigation and hearing which was afforded him on June 14, 1948. The hearing resulted in his dismissal from the service. The case was appealed to the highest official designated to handle grievances. On July 26, 1948, such officer, S. L. Peek, Director of Personnel, advised the General Chairman in part as follows:

"I have given the appeal careful consideration and beg to advise you that I affirm the decision of Vice President W. McN. Knapp, and cannot restore Mr. Coley to his position or compensate him as you ask."

On October 25, 1948, Mr. Peek wrote the General Chairman in answer to the latter's letter of October 23, 1948, in part as follows:

"I am sorry that I cannot agree to restore Mr. Coley to the service in non-bonded position as suggested by you and, as I am quite sure we could not agree on a joint statement of facts for submission of this case to the Third Division of the National Railroad Adjustment Board, it will be necessary for you to submit it ex parte if you give it that direction."

The controlling Agreement provides:

"(d) All disputes, if not settled on the property, shall be referred to the appropriate tribunal provided by law, within one (1) year from date of the decision of the highest official designated, or they are barred."

Rule 29 (d), current Agreement.

The appeal to this Board was filed on December 28, 1949. Whether the final decision of the Carrier's highest official designated was on July 26, 1948 or October 25, 1948, more than one year had elapsed when the claim was filed with this Board. The claim is therefore barred as the rule plainly provides.

The Organization contends that there was a further oral handling on or about May 5, 1949. The record discloses that the General Chairman discussed with Mr. Peek the possibility of reinstating claimant because of claimant's good record while on probation after pleading guilty to the commission of a felony. This was an attempt to obtain leniency and was not a decision of the highest official designated within the meaning of Rule 29 (d). The final decision of the case was clearly made by the highest official designated on July 26, 1948 or October 25, 1948.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the appeal is barred by the terms of the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 18th day of December, 1950.