

Award No. 10449

Docket No. MS-12635

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

THOMAS N. GREER

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM:

"This letter serves Notice on you as The Chief Operating Officer of The CRI&P RR at Chicago, Ill. That I will File an "Ex Parte" submission thirty days from this Date notice is given.

"This Case involves My Injuries as an Employe on Duty as Agent-Telegrapher. For which I was given Spinal-Surgery, at Des Moines, Iowa in May 1947. And two more subsequent injuries resulting Hospital again for Two weeks.

"And involved is the Lawsuit-settlement, with a Resignation-release, sandwiched in with these papers, A cute trick to get a signature. And no resignation-release required by The Railroad Act."

OPINION OF BOARD: The record shows that the core of this claim involves an allegation by the claimant that the Carrier improperly divested him of his seniority and employment rights when, on April 24, 1952, as part of the settlement of a law-suit, he signed a resignation and waiver of all claims for employment.

The record further shows that this claim was handled by the duly accredited representative of the claimant's class or craft of employees; and that it was declined by the Carrier's highest officer designated to handle such disputes on May 25, 1953.

On January 1, 1955, Article V of the August 21, 1954 Agreement became effective between the parties. Section 2 of this Article V expressly provides that with respect to "all claims or grievances on which the highest designated officer of the Carrier has ruled prior to the effective date of this rule, a period of 12 months will be allowed after the effective date of this rule for an appeal to be taken to the appropriate board of adjustment as provided in paragraph (c) of Section 1 hereof before the claim or grievance is barred."

Claimant's appeal to this Board was not made until June 12, 1961. His claim, therefore, is barred by the express terms of the controlling agreement and must be dismissed accordingly.

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 Employee involved in this dispute are respectively Carrier and Employee 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 claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 28th day of March 1962.