

Award No. 12193
Docket No. MS-13401

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

D. L. ADKINS

THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)

STATEMENT OF CLAIM: "This is my notice of intention to file Ex Parte submission 30 days from date this notice is given. The question involved is as follows. The chief train dispr Mr. W. H. Richardson made false statements, questions and answers during the investigation held in Covington, Ky., Jan. 10th, 1959, No. 6110. Second he violated the rules of agreement by working junior men on the seniority roster during 1957 and 1958 which I was idle and was entitled to. Third I was dismissed for refusing to work when I was not able and had no way of working the job I was placed on account no place to lodge or eat. In other words, an unfit job or unfair working conditions after working this job 4 days I asked off and was refused this right so I had to refuse to work it. There were no water, coal for heat and the weather was zero at this time. I slept in auto these days I worked the job. My Ex Parte submission will cover this."

OPINION OF BOARD: A review of the record shows conclusively that the claim that the Petitioner attempts to submit to this Board has not been handled on the property in accordance with the mandatory requirements of the time limit provisions of Article V of the Agreement of August 21, 1954, Section 3, First (i) of the Railway Labor Act, and Circular No. 1 of the National Railroad Adjustment Board. The claim is, therefore, barred, and will be dismissed.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 12th day of February 1964.