

Award No. 12253

Docket No. MS-14171

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bernard J. Seff, Referee

PARTIES TO DISPUTE:

JOHN E. McCORKLE

NORFOLK AND WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: This is to advise that thirty (30) days from this date, I will file submission in connection with failure of Brotherhood of Railway Clerks to give proper representation and violation of contract by Railway Company (Norfolk & Western Ry.) in that I was dismissed from the Railway service without benefit of Formal Investigation as per current agreement.

OPINION OF BOARD: The claim as submitted to the Board is a two-part claim alleging (1) "failure of Brotherhood of Railway Clerks to give proper representation * * *" and (2) " * * * violation of contract by Railway Company * * * in that I was dismissed from the Railway service without benefit of Formal Investigation as per current agreement."

This Board is without jurisdiction to decide any dispute between an employee and his Organization. Therefore, this part of the claim must be dismissed.

As to the allegation that Claimant was dismissed from the service of the Carrier without benefit of formal investigation, the record is undisputed that Claimant was notified in writing to attend an investigation to be held on January 5, 1961, on charge of being absent from duty without permission. The Claimant did not appear for the investigation on January 5, 1961. The investigation was rescheduled for January 10, 1961, and again for January 20, 1961. Claimant was properly notified of the rescheduling of the investigation for both dates, but he failed to appear on either date. He was dropped from Carrier's service on January 26, 1961.

The record also shows conclusively that no claim was instituted by or on behalf of the Claimant alleging a violation of the Agreement in accordance with the mandatory time limit rules of the applicable Agreement.

Based upon the entire record, the claim against the Carrier will be denied.

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 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 between the Employee and the Carrier; and

That the Agreement was not violated.

AWARD

Claim against the Brotherhood of Railway Clerks is dismissed.

Claim against the Carrier is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1964.