

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David H. Brown, Referee

PARTIES TO DISPUTE:

CESAR MENDES

RAILWAY EXPRESS AGENCY, INC.

STATEMENT OF CLAIM: I am notifying you that I will send you in due time my submission concerning a dispute at the Computer Operations Department at the REA Express: 331 East 38th Street, New York, N. Y.

After I bid several times on a bulletined job, many employes with less seniority than I, have been awarded the job. I could never exercise my seniority rights for this classified position and a programmer test was given to me instead of the 30 days in which to qualify. Rule 3 of the agreement was obviously violated. I am a qualified IBM machine operator and the job I want still an IBM operator job but with better pay. (Promotion). After complaining to the Brotherhood many times without success and after alternative but use my last resort. The Brotherhood's excuse is that everybody is making the test without exception but this is a bad excuse because it does not create a new rule and violates the Agreement. I would appreciate it immensely if you would be so kind as to exert your jurisdiction over this dispute. I have been a victim for a long time (of discrimination) and Rule 3 of the Agreement has been violated. The Brotherhood is not protesting my rights.

OPINION OF BOARD: The record in this docket shows conclusively that the Claim submitted to the Division was never handled on the property in accordance with the provisions of Section 3, First (i) of the Railway Labor Act, or Circular No. 1 of the National Railroad Adjustment Board; therefore, we have no alternative other than to dismiss the Claim.

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 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 27th day of September 1968.