

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

WILLIE STAPLETON

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Questions involved:

(1) Whether or not the Third Division of the National Railroad Adjustment Board has jurisdiction over the subject matter of the dispute herein involved.

(2) If in fact the Third Division of the National Railroad Adjustment Board does have jurisdiction over the subject matter of this dispute, whether or not the respondent, Louisville and Nashville Railroad Company, wrongfully and without right discharged the petitioner, Willie Stapleton, from his job with respondent as a maintenance of way employe and wrongfully and unlawfully forfeited the seniority rights and privileges of the petitioner herein.

(3) Whether or not the petitioner is entitled to reinstatement of employment with respondent and reinstatement of his seniority rights and privileges therewith with payment by the respondent to petitioner of all wages lost by petitioner by reason of the unlawful and wrongful acts of respondent.

OPINION OF BOARD: Part 1 of this claim raises the question of whether or not the Third Division of the National Railroad Adjustment Board has jurisdiction over the subject matter of the dispute involved in Parts 2 and 3 of the claim.

Parts 2 and 3 of the claim ask that claimant be restored to carrier's service with his former seniority and with pay for time lost since July 7, 1964. In his submission to this Board, claimant bottoms this portion of his claim wholly on the contention that carrier terminated his seniority rights on July 6, 1964, and has refused to employ him since that date, in violation of the terms and provisions of the agreement between the Louisville and Nashville Railroad Company and its maintenance of way employes.

The answer to Part 1 of the claim is yes, this Division of the National Railroad Adjustment Board does have exclusive jurisdiction over the subject matter of this dispute under the authority invested in it by the Railway Labor Act. This is a "Minor Dispute" as defined by the Act, involving a disagreement over the interpretation and application of the provisions of a collective bargaining agreement between the Louisville and Nashville Rail-

road Company and a member of its Maintenance of Way employes, a craft over which the Third Division is given jurisdiction under the Act. That the National Railroad Adjustment Board does have exclusive jurisdiction under the Railway Labor Act to determine contract disputes between a carrier and its employes has been affirmed by the United States Supreme Court, *Slocum v. Delaware, L. & W. R. Co.*, 339 U. S. 239.

A review of the record shows conclusively that Parts 2 and 3 of this claim that the Petitioner attempts to have adjudicated by this Board have not been handled on the property in accordance with the mandatory requirements of the time limit provisions of Rule 26 (Filing Claims) of the applicable agreement; Section 3, First (i) of the Railway Labor Act, as amended, 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, 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 20th day of February 1969.