



Award No. 17139

Docket No. MS-17004

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

MITSUNOBU SAITO

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: On behalf of my father, Mitsunobu Saito, 4508 Navajo Street, Denver, Colorado, notice is hereby given, in compliance with current regulations, to all concerned that we intend to file a *ex parte* submission 30 days from date of this notice.

For the purpose of identification of this notice, the question involved is whether or not the Union Pacific Railroad had the right to discharge Mr. Mitsunobu Saito from their employment, after 24 years of faithful service, in February 1942, without a valid reason.

The dispute involves the aforementioned carrier and Mr. M. Saito due to the discharge of the subject individual concerned with only the explanation that "no Japanese are permitted to be within five miles of a railroad." The dispute exists because it is contended that no such law existed. And that provisions of the National Railway Labor Act were violated by this carrier.

A copy of this notice has also been submitted by certified mail to the chief operating officer of the Union Pacific Railroad.

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, 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 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.

A W A R D

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 15th day of May 1969.