



Award Number 17511

Docket Number MS-18001

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

MICHAEL J. KLASHNA

**PENN CENTRAL COMPANY—SOUTHERN REGION
(Formerly New York Central Railroad-Southern District)**

STATEMENT OF CLAIM: Please take notice that the claimant, Michael J. Klashna, intends to file an ex parte submission of his claim against the Penn Central Railroad Company, a/k/a New York Central Railroad Company, a/k/a New York Central System Railroad Company, on the 1st day of September A.D. 1968. The general nature of the claim and the question involved is as follows:

The claimant, Michael J. Klashna, appeals from all decisions heretofore made by C. L. Stainbrook, Assistant Freight Sales Manager, E. Gibson, Assistant General Manager, Employee Relations, or other employees of the Penn Central Railroad Company relative to his dismissal from the service of the Company on April 7, 1967 for allegedly engaging in conduct unbecoming an employee of the then New York Central Railroad. Claimant specifically appeals from the decision of May 29, 1968 which denied Michael J. Klashna's claim that he was and is entitled to full pay for all days from 8:00 A.M. to 5:00 P.M., Monday thru Friday, of each week from March 29 to November 27, 1967, at his regular job as rate clerk in the New York Central Freight Sales Department in St. Louis, Missouri.

Claimant says that he was illegally discharged on April 7, 1967 by C. L. Stainbrook, Assistant Freight Sales Manager of the New York Central System Railroad Company, a copy of the notification of discharge is attached hereto.

Claimant says that he was discharged without just cause.

This notice is mailed to the above named parties on this 5th day of August A. D. 1968.

OPINION OF BOARD: This is a discipline case involving the dismissal of Claimant for conduct unbecoming an employee on April 7, 1967.

The record reveals that Claimant, acting in his own behalf, agreed to his reinstatement to service November 27, 1967, to the position of Rate Clerk, with seniority rights and vacation privileges unimpaired, but without pay for time lost. That agreement was confirmed by letter dated November 14, 1967, from Assistant Freight Sales Manager to Claimant Klashna. The

record further reveals that Claimant resigned from Carrier's service on April 26, 1968.

Under date of September 1, 1968, Claimant served notice of intent to file a new claim with this Board covering "full pay for all days from 8:00 A.M. to 5:00 P.M., Monday through Friday, of each week from March 29 to November 27, 1967, at his regular job as rate clerk in the New York Central Freight Sales Department in St. Louis, Missouri."

The record is clear that the claim, which Claimant is attempting to assert before this Division, was not handled on the property in the manner prescribed by Section 3, First (i) of the Railway Labor Act; Circular No. 1 of the National Railroad Adjustment Board, or the time limit rule of the applicable agreement. The claim is, therefore, barred from consideration by the Division 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 will be dismissed.

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 3rd day of October 1969.