



**Award Number 17534**

**Docket Number MS-17960**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Paul C. Dugan, Referee**

**PARTIES TO DISPUTE:**

**SALVATORE TRANI**

**PENN CENTRAL COMPANY**

**and**

**BROTHERHOOD OF RAILWAY, AIRLINE AND  
STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS  
AND STATION EMPLOYES**

**STATEMENT OF CLAIM:** Salvatore Trani, employee, hereby serves notice upon the NATIONAL ADJUSTMENT RAILROAD BOARD, of his intention to file ex parte submission as to a dispute concerning his dismissal from the New York Central Railroad after twenty-eight (28) years of faithful service.

The question involved concerns his dismissal from the New York Central Railroad for no apparent reason after twenty-eight (28) years of faithful service. The railroad states that Mr. Trani did not perform all of his duties as a porter in the building service department after returning from leave of absence due to sickness. Mr. Trani denies this and states that indeed he was ready, willing and able to perform all of his duties attendant to his position and that he was physically fit to perform all of these duties. His position now is that he has been unfairly dismissed and prohibited from performing the duties of his employment and requests a hearing at the earliest possible time.

**OPINION OF BOARD:** The Claimant was employed as a Mail Handler at West 29th Street, New York City. On December 16, 1967, he reported off duty on account of back trouble. He was approved for return to duty on March 28, 1968. While he was off disabled, his position was abolished and he had to select a new position on his return.

On April 1, 1968, Claimant exercised his seniority by displacing the incumbent of Porter Position No. 195 at Grand Central Station with a tour of duty from 8:00 A.M. to 5:00 P.M. (1 hour for lunch) daily except Saturday and Sunday. He worked on April 1st, but without explanation he absented himself until April 9th. On that date (April 9th) he called at the office of the Superintendent, Building Rental and Operation, and stated that he had stayed away from work because he did not feel well and that the work was too much for him. Because the Claimant indicated he either could not or would not perform all the duties of the Porter Position, he was notified that he was disqualified effective with the close of his tour of duty on April 1st.

The record in this docket shows conclusively that the claim submitted to this Division was never handled on the property in accordance with the provisions of the applicable Agreement and as required by Section 3, First (i) of the Railway Labor Act, or Circular No. 1 of the National Railroad

Adjustment Board. Furthermore, this Board is without jurisdiction to decide a dispute between an employe and his Organization (Section 3, First (i) of Railway Labor Act). The claim is, therefore, barred from consideration by the Division and will be dismissed.

**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 between the Employees and the Carrier; 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 22nd day of October 1969.