

Award No. 18337
Docket No. MS-18677

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

J. J. MILESKY

PENN CENTRAL TRANSPORTATION COMPANY

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on January 17, 1970, covering an unadjusted dispute between me and the Penn Central Railroad involving the question:

That the Penn Central Railroad, in abolishing my position on December 26, 1967, and by placing me on the furlough list on February 2, 1968, did violate portions of the following agreements; Agreement for Protection of Employees in Event of Merger of Pennsylvania and New York Central Railroads Effective January 1, 1964, known as Attachment I, Agreement of May 1936, Washington, D. C., Section 5 (2) (f) of the Interstate Commerce Act and Appendix D attached to and made a part of the Agreement for Protection of Employees.

The abolishment notice stated "the seasonal trend in decrease in mail traffic" as the reason for abolishment. Whereas, this position was not abolished in previous years, and, whereas, it was not restored after the so-called "seasonal trend" abated, I contend that this abolishment was in violation of Paragraph Four, Section 1 (b) of Attachment I, and in violation of Section 12 of the Agreement of May 1936, Washington, D. C., and in violation of Section 5 (2) (f) of the Interstate Commerce Act and in violation of Paragraph Three of Appendix D, which is a part of Attachment I.

And, whereas, Paragraph Four of Section 1 (b) of Attachment I states "employees furloughed due to a seasonal requirements shall not be furloughed in any twelve month period for a greater period than they were furloughed during the twelve month period preceding the date the merger is consummated," and, whereas, I was never previously furloughed, I should have been reinstated to my previous position on February 2, 1968, rather than, being placed on furlough.

OPINION OF BOARD: It is clear from the record that the claim the Petitioner is attempting to assert before this Board was not handled on the property of the Carrier in accordance with the provisions of the applicable collective bargaining agreement and as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment

Board. Therefore, the claim is 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 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 17th day of December 1970.