

Award No. 18341
Docket No. MS-18681

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, by the application of the provisions of Article II, of the February 7, 1965 Agreement, changing my status from protected to unprotected employe, violated the following Agreements or Acts: Section 5 (2) (f) of the Interstate Commerce Act, Section 12 of the Agreement of May, 1936, Washington, D. C., Section 1 (a) of the Agreement for Protection of Employees in Event of Merger of Pennsylvania and New York Central Railroads and Appendix D attached to and made a part of the Agreement for Protection of Employees in Event of Merger of the Pennsylvania and New York Central Railroads.

Whereas, the application of the provisions of Article II, Section I, of the February 7, 1965 Agreement, changing my status from protected employe to unprotected employe, are contrary to the provisions of the Agreements and Acts herein listed, I contend these provisions of the February 7, 1965 Agreement, and any other provisions, agreements and rules, that were applied to change my employment status, are illegal. Therefore I claim my employment status was not forfeited on April 13, 1965, by being awarded a position of Extra Baggage man.

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.