

Award No. 18435
Docket No. MS-18425

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Melvin L. Rosenbloom, Referee

PARTIES TO DISPUTE:

MR. R. E. KILPATRICK

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: In accordance with Circular No. 1 issued October 10, 1934 by the NATIONAL RAILROAD ADJUSTMENT BOARD and entitled "Organization and certain Rules of Procedure," I hereby notify the Third Division of the NATIONAL RAILROAD ADJUSTMENT BOARD of my intent to file ex parte submission 30 days from the date of this notice.

On May 13, 1968 I was employed at the Chicago and North Western Railway freight station, located at 1400 North Elston Avenue, Chicago, Illinois, as a Yard Clerk with seniority on the Clerks Roster, District 17. I am a member of the Brotherhood of Railway, Airline and Steamship Clerks/(B.R.A.C.) Roger Bell Lodge 1597. On the date in question I was advised in writing by Assistant Agent W. J. Zarazinski in a letter dated May 13, 1968 that Janitor Service had been abolished as of April 1, 1968 and that I was to perform janitorial duties in addition to clerical work. At the same time certain of my clerical duties, specifically transmission of switch tabs to the computer, were eliminated from my duties.

On May 14, 1968 I filed an oral complaint with Mr. G. Toppeh, General Chairman of the B.R.A.C. stating that this action was a violation of the Clerks Agreement, Rule 5 and of Rule 55 B & D. Mr. Toppen stated that he would send an investigator to investigate. However, the investigator did not take any action until late in June, 1968. In the meantime I wrote to Mr. R. E. Schwab, Agent for the Chicago and North Western Railway, Proviso, Illinois appealing the action of May 13, 1968.

I received no information from anyone as to any action being taken either by B.R.A.C. or by Mr. Schwab. Finally, on August 28, 1968 I wrote to Mr. Schwab and stated that I must proceed to the next higher authority since I had no satisfaction from my previous complaint. On August 30, 1968 Mr. Schwab wrote me stating that my original complaint did not constitute a valid claim or grievance. Subsequently I received a copy of a letter dated September 9, 1968 from G. Toppen of B.R.A.C. addressed to Mr. F. J. Santore, Superintendent, C&NW Railway Co., which letter indicated that B.R.A.C. had written on July 8, 1968 to Agent Schwab and that Agent Schwab had answered on August 15th, 1968. In this letter Mr. Toppen appealed a denial by Agent Schwab of a request by Mr. Toppen for a joint check.

On September 20, 1968 I wrote to Mr. Santore requesting a hearing on the denial of my claim by Mr. Schwab. No answer to this letter was received.

On November 18, 1968 a letter was written to Mr. W. J. Fremon, C&NW Railway Co., Director of Labor Relations (Non-operating) by Mr. G. Toppen indicating that Mr. Santore had declined my claim on September 25, 1968. I received a copy of this letter, which constituted the first time since September that I received any information as to what actions were being taken. The letter of November 18, 1968 appealed the decision of Superintendent Santore and again requested a joint check of the station in question to ascertain whether violation of the afore-mentioned Rules 5 and 55 B & D had in fact occurred.

Having heard nothing further on the matter, I wrote to Mr. B. W. Heine-
man, Chairman of the Board, C&NW Railway Co. requesting an investigation
and a hearing. On March 11, 1969 this letter was answered by Mr. W. J.
Fremon who stated that correspondence was being handled by Mr. G. Toppen
and must be handled through him. The letter of March 11, 1969 stated that
the case was "currently on the docket for subsequeunt settlement."

On May 13, 1969 a letter was written to Mr. W. J. Fremon by Mr. G.
Toppen requesting that the case be placed on the docket for discussion at a
conference scheduled for May 22, 1969.

The last information which I have had on my claim was the copy of the
letter of May 13, 1969 referred to above. It now being more than a year since
my claim and complaint was first filed and almost 3 months since the indi-
cated meeting of May 22, 1969, I am filing Notice of Intent as required by
Circular No. 1 dated October 10, 1934.

OPINION OF BOARD: It is clear from the record that the claim Peti-
tioner is attempting to assert before this Board was not handled to completion
on the property of 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 Adjust-
ment Board. Specifically, at the time this claim was brought before this Board,
a final decision by Carrier's Chief Operating Officer designated to handle
disputes was pending. This Board is without jurisdiction to consider cases
which were only partially processed on the property of the Carrier. There-
fore, the claim 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 respec-
tively 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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of March 1971.

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