



Award No. 18470
Docket No. MSX-18809

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Robert M. O'Brien, Referee

PARTIES TO DISPUTE:

RICHARD P. MERCADO
REA EXPRESS, INC.

STATEMENT OF CLAIM: (1) The REA Express Inc. representatives violated Rule #13 of the Agreement when they refused to honor employee Richard P. Mercado's application for Supplemental Unemployment Insurance Benefits on September 18, 1967. This is a continuing claim and I request the carrier by required to reimburse me for the monetary losses suffered by me through its actions. The amount of claim shall be the difference the amount of monies received by me under the provisions of the Railroad Unemployment Insurance Act and the amount of \$15.00 for each day of unemployment since September 18, 1967.

(2) This is a dispute between Richard P. Mercado and the REA Express Inc. There is a Rules Agreement effective January 1, 1967 between the REA Express and the Brotherhood of Railway, Steamship Clerks, Freight Handlers, and Station Employees, which is on file with your Honorable Board and it will be considered a part of the Statement of Fact. I was hired on August 7, 1963 and held various regular bulletin positions until April 4, 1965. I made application for Supplemental Unemployment Insurance Benefits several times prior to September 17, 1967 and they were honored by the carrier. I applied for Supplemental Unemployment Insurance Benefits for the period beginning September 18, 1967. I was declined payment on the basic I had less than two years service, Exhibit (A) and (A-1).

I am presenting this case unilaterally and request that this case be docket for consideration by the Board. Also, I feel I am fully qualified for Supplemental Unemploymental Benefits under Rule #13 of the agreement between the REA Express and the Brotherhood of Railway, Steamship Clerks, Freight Handlers, and Station Employees.

OPINION OF BOARD: Carrier contends that this Board should dismiss the claim because it lacks jurisdiction to decide this matter. The Railway Labor Act, Section 3, Second, sanctions "the establishment of system, group, or regional boards of adjustment for the purpose of adjusting and deciding disputes of the character specified in this section ***" Pursant to this proviso, the parties to the present dispute, mutually agreed on December 13, 1968 to the establishment of a Special Board of Adjustment " * * * to be the exclusive means by which any disputes between the parties hereto and/or the employees of the Carrier represented by the Organization shall be adjusted ***."

The parties, by mutual consent, are without power to remove disputes from the jurisdiction of this Board, when the dispute unquestionably is within our jurisdiction. Such is the dispute in question. However, when the parties, in clear and unambiguous language, express their intent, as they did in the December 13, 1968 Agreement, regarding the procedure to be followed in the settlement of disputes, we should give effect to that intent.

The parties intended that aggrieved employees would utilize the Special Board of Adjustment to remedy alleged violations of the Agreement. Claimant failed to submit his claim to the Special Board of Adjustment consequently this Board is without jurisdiction to hear this claim.

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 is without jurisdiction to adjudicate this dispute in light of the December 13, 1968 Agreement between the parties.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1971.