

Award No. 18543
Docket No. MS-19071

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

JESUS SANCHEZ

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: "This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of the intention of my client Jesus Sanchez as represented by me, his counsel, to file an ex parte submission on 30 days from the date of this letter covering an unadjusted dispute between my client and the Chicago & North Western Railway Company involving the question:

1. Jesus Sanchez, a Spanish-speaking individual, who neither reads nor speaks English, was not apprised by the Carrier of his right to appeal within 10 days following a decision to dismiss him issued pursuant to a disciplinary hearing, as set out in the Brotherhood of Maintenance of Way Employees Working Conditions Agreement with the Chicago and North Western Railway Company, effective September 1, 1961.

Instead, an employee and agent of Carrier wrongfully advised Jesus Sanchez, through a representative of the Archdiocesan Latin American Committee, that an appeal must be filed through the Chairman of the Brotherhood of Maintenance of Way Employees.

2. Jesus Sanchez was wrongfully denied by Carrier of his right to appeal the above mentioned decision rendered on May 4, 1970 to dismiss him from employment with the Carrier.

3. Carrier violated the above-mentioned agreement when it refused to grant Jesus Sanchez the full vacation pay he had earned for the preceding year even though Jesus Sanchez qualified for such pay.

OPINION OF BOARD: The record in this case reveals that Claimant was given a hearing on April 24, 1970 and as a result of said hearing was dismissed from service effective April 28, 1970.

The record in this docket clearly shows that the claim 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: That 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 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: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April 1971.