

Award No. 19018
Docket No. MS-19525

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

ANGEL A. AVILES, JR.

NORFOLK AND WESTERN RAILWAY 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 covering an unadjusted dispute between me and the Norfolk & Railway Company.

My claim is in connection of me been forced to resigned my employment as a division foreman from the Norfolk & Western Railway Co. Incident to investigation of employment practice of the carrier by the U.S. Naturalization & Immigration Service.

Parties involved in this matter are:

- 1 — Joseph Holmberg-District Chief Engineer-(retired)
- 2 — Norman E. Byrne-Division Engineer-St. Louis terminal Division
- 3 — Donald Dobson-Regional Engineer

I do not know what rules we are going to submit in this case, but I believe that the N. & W. RR Co. didn't have any reason to ask me for my resignation just because the U. S. Naturalization & Immigration Service asked them to discharge me from my duties.

OPINION OF BOARD: Review of 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 28th day of February 1972.