

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19300
Docket Number MS-19592

Joseph E. Cole, Referee

(John Mahnesmith, Jr.

PARTIES TO DISPUTE: (

(Western Fruit Express Company

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intentions to file an ex-parte submission within thirty (30) days from the date of this notice, concerning an unadjusted dispute between the Western Fruit Express Company and myself about seniority rosters.

The company has two (2) rosters; one for the laborers and one for the foremen, reliefmen and inspectors. We can be listed on both and I feel that I should be on both. I started working for this company in April, 1955. This other man started about a month later than myself and he is named on both rosters. This is the reason I am writing to you.

During the summer vacations there is this job where you work three (3) nights as a laborer and two (2) nights as a reliefman. The man mentioned above worked this job and his relief seniority is September 6, 1956, which is how it should be.

In 1966 and 1967 I worked the same job as he did. However, I got hurt on the job in April of 1968 and was off work for a year. They had another laborer work that job and now he is on both rosters too. His relief seniority is May 15, 1969. Therefore, I feel I also should be listed on both rosters.

When I started back to work in April of 1969, I looked at the seniority rosters and found that I was named on just the laborers roster. I inquired of Mr. H. M. Roberts, who is the agent, and he said that I shouldn't be on both. I thought he put my name on it in 1966 or 1967. I submitted this information to the union and they have been working on it since 1969. I just received a letter from them that I was only on the one roster (laborers). Therefore, I would like to have an oral hearing on the matter as soon as possible.

OPINION OF BOARD: A review of the record indicates conclusively that the claim that the Petitioner has submitted to this Board has not been handled on the property in accordance with the requirements of Rule 53 of the Applicable Agreement and the mandatory requirements of Section 3, First (i) of the Railway Labor Act. The claim is, therefore, barred and will be dismissed. See Awards 17139, 13659, 12124, 11904, 10193 and 10873.

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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 has jurisdiction over the dispute involved herein; and

That the Claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Kellum
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.