

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19398
Docket Number MS-19668

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: { David E. Sypien
{ Chicago Heights Terminal Transfer Railroad 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 February 27, 1972, covering an unadjusted dispute between David E. Sypien and the Chicago Heights Terminal Transfer Railroad.

This is in regards to back-pay for which was not paid to me for service rendered until December 11, 1970. I was still on the payroll on December 11, 1970, after which I received compensation for vacation time for 1971 from which union dues were deducted for January, 1971. Therefore, the five (5) working days vacation gives me another week of service to the Chicago Heights Terminal Transfer Railroad. So, five working days from December 4, 1970, brings my service time up to and including December 11, 1970.

I'm in hopes that you will be able to help me secure my back-pay that I am legally entitled to.

OPINION OF BOARD: A careful review of the record herein clearly indicates that the claim Petitioner is attempting to assert before this Board was not handled on the property in accordance with the provisions of the applicable Agreement and as required by Section 3, First (1) of the Railway Labor Act and Circular 1 of the National Railroad Adjustment Board.

Consequently due to Petitioner's failure to progress the claim in accordance with the prescribed procedure, we are constrained to dismiss the claim and we will not pass on the merits thereof.

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

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Claim not progressed on the property as provided by the Railway
Labor Act.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 15th day of September 1972.