

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20315
Docket Number MS-20167

Dana E. Eiscben, Referee

(Paul V. Lozito

PARTIES TO DISPUTE: (

(Penn Central Transportation 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 (on 30 days from date of this notice) covering an unadjusted dispute **between** me and the Penn Central Railroad involving the question:

Under the Merger Protection Agreement, am I protected employee for services rendered Feb. 7, 1965 and Dec. 31, **1972?**

OPINION OF BOARD: Claimant herein filed Notice to this Board of intention to file an ex parte Submission. A review of the record, however, reveals that Claimant did not handle the claim on the property in the usual **manner** up to and including the Chief Operating Officer designated to handle such disputes. This disregard for the provisions of the grievance machinery in the applicable Agreement **and** the requirements of Section 3 First **(1)** of the Railway Labor Act, as amended, constitute fatal defects in this claim. Accordingly, the matter is not properly before us for adjudication **and** must be dismissed.

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 Employee 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

The matter is not properly before us and must be dismissed.

Award Number **20315**
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Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

G. W. Paulis
Executive Secretary

Dated at Chicago, Illinois, this **12th** day of **July 1974**.