

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20316
Docket Number MS-20204

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Michael **Stuban**
(
(Penn **Central Transportation Company**)

STATEMENT OF CLAIM: This is to server notice, as required by the rules of the **National** Railroad Adjustment Board, of my intention to file an **ex parte** submission on January 3, 1973, covering an unadjusted dispute between me and The Penn Central **Trans-**portation Company, involving the question:

Under the Merger Protection Agreement, am I a protected employee for services rendered between April 2, 1962 to present date?

OPINION OF BOARD: The claim herein presented was appealed directly to this Board from the decision of **an** intermediate level Carrier official, without recourse or regard to the manner of appropriate handling for such grievances set forth in the applicable Agreement. Section 3, First **(1)** of the Railway Labor Act, as **amended**, mandates handling such disputes in the usual **manner** on the property. **Up** to and including the chief operating officer of the Carrier designated to handle such disputes. Accordingly, the instant claim is not properly before us for consideration 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 **Employes** involved in this dispute **are** respectively Carrier and **Employes** 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 not properly before us and must be dismissed.

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Claim dismissed.

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By Order of Third Division

ATTEST: *A. W. Paulos*
Executive Secretary

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