

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20411
Docket Number MS-20625

William M. Edgett, Referee

(Gervis L. Tillman

PARTIES TO DISPUTE: (

(The New York and Long Branch Railroad Company

STATEMENT OF CLAIM: This is to **serve** notice, as required, of my intention to file an **ex-parte** submission concerning an unadjusted dispute between me, the New York and Long Branch Railroad, and the Brotherhood of Maintenance of Way.

After complying with rule 8 on September 21, 1973 to fill a **permanent** position, I was utilized two days between the dates of September 21, 1973 and September 28, 1973. This being **in** violation of existing rules, I notified the Carrier and the Union **in** protest. Where-upon, I was dismissed from service by the Carrier without a hearing, in violation of **Rule 36**.

In view of stated violations by the Carrier and the negligence of the Union to act in protection of my vested interest, I am requesting to be returned to service **with** all rights **and** compensation based on a forty hour work week for the period from the 21st of September, 1973 to such time as I am fully restored to service.

OPINION OF BOARD: This claim was not handled on the property in accordance with the provisions of the applicable collective bargaining Agreement and as required by Section 3, First **(1)** of the Railway Labor Act **and** Circular No. 1 of this Board. It 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 **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 must be dismissed.

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Claim dismissed.

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By Order of Third Division

ATTEST: *A. W. Paulus*
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1974.