

NATIONAL RAILROAD **ADJUSTMENT** BOARD

**THIRD** DIVISION

Award Number 20675  
Docket Number **MS-20932**

Irwin M. Lieberman, Referee

(Kenneth **Banghart**  
**PARTIES TO DISPUTE:** (  
(The Atchison, Topeka and Santa Fe Railway  
( Company - Dining Car Department

**STATEMENT OF CLAIM:** This is to serve notice, as required by the rule of the National Railroad Adjustment Board, of my intention to file an ex parte submission on August 1, 1974 covering an unadjusted dispute between me and the Atchison, Topeka and Santa Fe Railway Company involving the question:

Must petitioner be forced to submit an application to, and accept employment with, the National Railroad Passenger Corporation in order to maintain a protected employment status even though his position would thereby be worsened **and** would require a change in residence.

**OPINION OF BOARD:** Petitioner brings this dispute to this **Board** based on possible rights he may have under the National Railroad Passenger Corporation Agreement and the implementing Agreement signed by Carrier and the Organization dated December 14, 1973.

An examination of the **record** of the dispute reveals that at no **time** did the problem receive the handling on the property normally followed by the parties to the January 1, 1969 Agreement between Carrier and the United Transportation Union, including appropriate timely appeals and finally a conference. Section 3 First (i) of the Railway Labor Act, as amended, precludes this **Board** from considering a dispute unless it has been ". . . **handled** in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes . . . ." The National Railroad Adjustment Board, in all of its Divisions, has consistently over the years declined to assert jurisdiction in situations **analagous** to that herein, as mandated by the statute. For this reason we cannot consider the merits of this dispute and 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;

Award Number 20875  
Docket Number **MS-20932**

Page 2

That the **Board** does not have jurisdiction.

A W A R D

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

ATTEST:

*A. W. Paulose*  
Executive Secretary

Dated at **Chicago**, Illinois, this 26th day of **November** 1975.