

NATIONAL ~~RAILROAD~~ ADJUSTMENT BOARD

~~THIRD~~ DIVISION

Award Number 20889  
Docket Number MS-21091

Lloyd H. Bailer, ~~Referee~~

(James W. Britton

PARTIES TO DISPUTE: (

(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: This is to serve notice as required by the rules of the National Railroad Adjustment Board of my intentions to file an E-party submission on thirty days from the date of this notice covering an unjust dispute between the ~~B&O~~ Railroad and parties involved stated as being Charlie ~~Digrutollo~~, track supervisor, E. L. Moser, division engineer, and C. E. Patterson, track ~~forman~~.

The statement is as follows: they had ma charged with involuntary unexplained absence, and to appear for a hearing at ~~the~~ train masters office, in ~~Parkersburg~~. I contacted both parties and told them I could not be there at the time stated, so they told ma to contact my union representatives, W. E. Lyons, in which I did. His office said they would contact him and have ~~it~~ set for a Latter date.

In the mean time, ~~I was layed~~ off on June 30. I have written to' both offices to have them hold my ~~seniority~~ rights. Mr. Patterson stated to ma latter that they had held the meeting without my presents, and stated that when they would ask me a question in the hearing they would but ~~down~~ no answer, so how could I answer if I wasn't present?

Mr. Oday, B&O police at Parkersburg, at a later date brought me to a letter, where I had been ~~taken~~ out of service and wanted me to sign it which I refused to do. I believe this to be very unfair and unjust, and I would like to have an oral hearing on this matter, so I could return to my job.

OPINION OF BOARD: Careful scrutiny of the record shows that the claim ~~I~~ asserted before this ~~Board~~ was not progressed on the property in ~~accordance~~ with the requirements of Section 3 First ~~(1)~~ of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. Claimant ~~disregarded Rule~~ 48(d) of the controlling Agreement and filed his claim with this Board without first availing himself of appeal procedures specified ~~in~~ said Rule.

In these circumstances the claim is not properly presented for consideration on the merits and therefore must be dismissed.

FINDINGS: ~~The~~ Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:-

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** is barred.

A W A R D

Claim dismissed.

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

ATTEST:

*A. W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1975.