

' NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION,

Award Number 21332
Docket Number MS-21402

Nicholas H. Zumas, Referee

(Jimmy New

PARTIES TO DISPUTE: (
(Robert W. **Blanchette**, **Richard** C. Bond and John H.
(**McArthur**, Trustees of the Property of
(Penn Central Transportation Company, Debtor

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** July 26, 1975, covering an unadjusted dispute between me and the Penn Central-Transportation Company involving the question:

Jimmy New, claimant, was served with a **notice to attend an** investigative **hearing**. Said notice was received by claimant on the date of the scheduled hearing. On the third occasion a hearing was scheduled, claimant had received permission to be absent from work to attend a funeral out of State. At the third hearing, claimant was dismissed. It is claimant's **contention** that he has not been given a valid hearing and further that he was not absent from work on June 10, 1974, as claimed by the Company.

OPINION OF BOARD: A review of the record in this dispute compels a finding that Petitioner is attempting to assert a claim before this Board that was not handled on Carrier's property as required by Section 3, First (i) of the Railway Labor Act, **Circular** No. 1 of the National Railroad Adjustment Board, and was not in **accordance with** the provisions of the applicable agreement. Therefore, the claim is barred from consideration and must be dismissed.

Even if the Board were able to overcome the jurisdictional hurdle, this Board, after having reviewed the merits of the claim, would have denied the claim.

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 Petitioner involved in this dispute are respectively Carrier and Petitioner within the meaning of the Railway Labor Act, as approved **June** 21, 1934;

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That this Division of **the Adjustment** Board has jurisdiction over the dispute involved herein; and .

That the claim be **dismissed**.

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 30th day of **November** 1976.

