

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21793
Docket Number MS-21685

Robert W. Smedley, Referee

(Marion Dooley
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 April 1, 1976, covering an unadjusted dispute between Mr. Marion Dooley and the **Penn Central Railroad** involving the question of whether or not the carrier violated the rules agreement effective February 1, 1968 when it failed on the effective date of the merger agreement to recall the claimant, Mr. Marion Dooley from furlough status as provided in the provisions of the merger agreement.

OPINION OF BOARD: The claim in this case is premised upon Carrier's failure to recall Claimant Marion Dooley from furlough **on** the effective date of the Merger Agreement, February 1, 1968. The Claimant was employed March 29, 1941 as a Group II **employee** on the **former** New York Central and was furloughed July 13, 1962, and has performed no service since that date.

The claim was initiated by the filing of a dispute on February 26, 1973, with the Superintendent-Labor Relations, and then progressed to the highest designated officer, where it was denied for procedural reasons and on the merits. The Carrier argues the claim is procedurally defective because it was not submitted to the proper officer pursuant to Rule 7-B-1(a), which requires **that** claims **must** be submitted "to the **employee's** immediate supervisor."

The record established **that** the Superintendent-Labor Relations is the **second-tier management** official responsible for handling claims under **Rule 7-B-1**, and his responsibilities are limited to appeals from **decisions** of the **"immediate supervisor."** Claims are not instituted with the **Superintendent-Labor Relations** as part of the **"usual manner of handling grievances"**; consequently the express requirements of Rule 7-B-1(a) and **Section 3, First (i) of the Railway Labor Act** have not been satisfied in **this case.**

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

The **Agreement** was not violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 18th day of November 1977.

