

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21853
Docket Number MS-21766

George S. Roukis, Referee

PARTIES TO DISPUTE: (Shirley H. Stone
(Consolidated Rail Corporation
(**(Former** Penn Central Transportation Company)

STATEMENT OF CLAIM: As an employee of the Penn Central Transportation Company I have the **following** subject to list with the Third Division, National Railroad Adjustment Board for adjudication:

"Protest of the removal of the name of Shirley H. Stone from the 1975 Lake Seniority District Clerks Roster. Request that Mrs. Stone's name be restored to that roster with the appropriate seniority date of August 13, 1956."

OPINION OF BOARD: Careful examination of the entire record, which **includes** submissions of **the Petitioner** (an individual), Respondent' Carrier, **and** by Third **Party** Notice Hearing the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station **Employees**, discloses that this dispute is not one over which this Board **has** jurisdiction. The record discloses that the dispute is an articulate expression of Petitioner's dissatisfaction over the terms and provisions of an agreement dated April 19, 1974, between the Carrier and BPAC. Petitioner sets forth four **points**, arguing (**Employee's Position**): ..

- I. It violates the provisions of Section 2 Fourth of the Railway **Labor Act** in that it makes the Company a party to an attempt to influence or coerce its employees to join or **remain** members of a labor organization.
- II. It violates Section 3(a) of the Union Shop Agreement of **August** 29, 1952 which provides that an employee who retains seniority under a Schedule Agreement like myself, and is transferred to full time employment not covered by such agreement, like myself, will not be required to maintain membership as provided in Section 1 so long as they remain in such other employment,

- "III. It violates Section 4 of the Union Shop Agreement in that membership is not available to me in my present non-agreement employment on the same terms and conditions as are generally applicable to other members working on positions fully covered by the Brotherhood of Railway, Airline and Steamship Clerks Schedule Agreement.
- IV. It is a discriminatory agreement because it provides that only those employees who have been promoted to fully excepted **or** official positions on or after March 22, 1969 **must** become members or retain membership in the Clerical organization and not all employees in a promoted status whose seniority is being continued regardless of when they were promoted."

Section 3, First **(1)** of the **Railway Labor** Act confines the jurisdiction of the National Railroad Adjustment Board to disputes concerning "the interpretation or application of agreements concerning rates of pay, rules, or working conditions." The Board has no jurisdiction to consider allegations concerning the legality of agreements entered into pursuant to the settlement of proper Section 6 Notices. An individual's expressed dissatisfaction with the terms and provisions of such agreements, and allegations that the agreements are illegal or discriminatory without even a hint of allegation that the agreement is not being properly applied, clearly constitutes a case over which the Board lacks jurisdiction. See Awards 12466, 13830, 19142, and 20078 of this Division and Awards 1012, 1145, 3863, 4073, 6948, and 7077 of the Second Division. Also, see 343 U.S. **768** **Brotherhood of Railroad Trainmen vs. Simon L. Howard, Sr.**, wherein the Supreme Court held: "The claims here cannot be resolved by interpretation of a bargaining agreement so as to give jurisdiction to the Adjustment Board under **our** holding in **Slocum vs. Delaware. L&W.R. Co.**, **339** U.S. **239**. This dispute involves the validity of the contract not its meaning." The claim will 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 **21853**
Docket Number MS-21766

Page 3

The Board lacks jurisdiction.

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 January **1978**.