

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21868  
Docket Number MS-20993

Nicholas H. Zumas, Referee

PARTIES TO DISPUTE: (James P. Maher  
(The Long Island Rail Road Company

STATEMENT OF CLAIM: "1A Wrongfully and arbitrarily (sic) discharged as Fireman Trainee on July 25, 1969.

1B Unjustly and arbitrarily (sic) discharged from Switchtender Trainee on August 25, 1970 after resigning on August 24, 1970 as a clerk to transfer to Switchtender Trainee and was refused clerk's position back."

OPINION OF BOARD: An examination of the record in this dispute shows that Claimant's asserted claim arose on August 25, 1970. The first written notification to Carrier was September 30, 1971 - not from Claimant but from a member of the New York legislature. Even assuming that a New York Assemblyman was an appropriate representative of Claimant in these circumstances, no action was taken within the 60 day period as required by Rule k-D-1(a).

In addition, Claimant failed to progress this claim to this Board within the nine month requirements of Rule 4-D-1(c).

Under the circumstances there is no alternative but to dismiss the claim.

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

The Agreement was not violated.

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Claim dismissed.

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By Order of Third Division

ATTEST:

A.W. Paulos  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January 1978.

FEB 2 1978  
NATIONAL RAILROAD ADJUSTMENT BOARD