

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **22603**
Docket Number **MS-22968**

PARTIES TO DISPUTE: (William F. Tackett
(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: "Claimant claims loss of wages resulting from lack of employment and loss of seniority with his former employer, which was caused by the Chessie System's hiring the claimant after he took a medical examination and then terminating the claimant as a result of the medical examination, all without just cause."

OPWION OF BOARD: Claimant William F. Tackett applied for position of **trackman** on **April 26, 1978**. Claimant was given a physical examination **April 28, 1978** and was employed as **trackman** by Carrier May **4, 1978**. **Carrier's** Regional Medical **Examiner**, upon review of Claimant's physical examination **papers**, disqualified him from further service. Claimant was notified **June 12, 1978** that his employment application was rejected and **he was** removed from **service all** within the sixty **(60)** day probationary period allowed Carrier by Rule 2(a) of the collective bargaining Agreement.

Claimant seeks monetary recovery for loss of wages resulting from loss of employment and loss of seniority of his former employer, which was caused by the Chessie System's hiring him after he took a medical examination and then terminating his employment when the Regional **Medical Examiner** rejected his application.

Carrier states that Claimant was removed from **service** within **the sixty (60)** day probationary **period** allowed by Rule 2(a) for **acceptance** or rejection of **employment application** and that the instant **claim was not presented** for "on property" handling in **the** usual manner prescribed by the Railway Labor Act.

Cur **review** of the entire record **clearly** shows that **the claim which** **Petitioner** is attempting to assert before this **Board** was not handled on the property of the Carrier in accordance with requirements of the **applicable** collective bargaining Agreement Rule 21(h) as required by Section **3, First** (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment **Board**. Therefore, the claim as described above is barred from consideration by this Division and is accordingly 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;

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: G. W. Pauler
Executive Secretary

Dated at Chicago, Illinois, this 30th day of October, 1979.

10-30-79
G. W. Pauler
Executive Secretary