

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **23336**  
Docket Number M-23907

**PARTIES TO DISPUTE:** (Roy E. Simsheuser  
(Missouri Pacific Railroad Company

**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 **10-16-80** covering an unadjusted dispute between me and the Missouri Pacific Railroad involving the question:

I was not allowed to return to work until I lose some weight. The railroad doctor released me, but St. Louis sent notice that I **had** to lose the weight before returning to work. I feel this is discriminatory since there are other men as big or bigger than I working on the railroad."

**OPINION OF BOARD:** We have carefully reviewed the entire record in this case and have considered all of the arguments advanced by the **Parties** involved in this dispute.

**From** the record in this case, it is apparent that no claim or grievance was presented in writing on the property to any Carrier Officer as required by Rule 12, Section 2 of the Agreement.

Accordingly, since no claim or grievance was properly initiated on the property, the jurisdictional requirement of handling claims "in the usual **manner**" as mandated by Section 3, First **(1)** of the Railway Labor Act, as amended, has not been met. We are left with no alternative but to dismiss the claim for lack of jurisdiction.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That hearing was held and concluded;

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: *A. W. Panko*  
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June 1981.