

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23444
Docket Number MS-23295

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: { Frank J. Zimmerman
{ Consolidated Rail Corporation

STATEMENT OF CLAIM: "This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of our **intention** to file an exparte **submission** on December 1, 1979, covering an unadjusted dispute between our client Frank J. **Zimmerman** and the Consolidated Rail Corporation, Penn Central Division, involving the question: Wrongful Discharge."

OPINION OF BOARD: Claimant Frank J. **Zimmerman** was employed by the Carrier on June 16, 1976 as a **Trackman**. On November 30, 1977 he was furloughed due to a reduction in force. The **Claimant** was notified on March 6, 1978 by certified mail of recall, but the letter was returned by the Postal Service to the Carrier as "**unclaimed**". A second certified letter of recall, April 21, 1978, was mailed to **Claimant** notifying him, under Rule 29-C of the Agreement that failure to report or provide proper reason for not doing so under the **provisions** of the Agreement would result in a forfeiture of seniority and **protection**. This letter was also returned to the Carrier by the Postal Service as "**unclaimed**". **Some time** later Claimant sought to return to work and was advised of the forfeiture. In November, 1979 Claimant's attorney filed a submission directly with the Third **Division**, **NRAB**.

A review of the record establishes that the claim was not processed **in** the "**usual manner**" under the applicable agreement. Accordingly, **Claimant** did not **comply** with the mandates imposed by Section 3, First, (i) of the Railway Labor Act and we have no recourse but to dismiss the claim (**Award 21902**).

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.

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Claim dismissed.

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By Order of Third Division

Attest: *A. W. Paulsen*
Executive Secretary

Dated at Chicago, **Illinois**, this 3rd day of November **1981**.

