

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23454
Docket Number MS-23745

A. Robert Lowry, Referee

(Robert O. Crawford
PARTIES TO DISPUTE: (
(Norfolk and Western Railway **Company**

STATEMENT OF CLAIM: "I was dismissed **from** the Norfolk & Western Railway Company on Oct. **12, 1978** by Superintendent Bill Bridger. He cites rule 17 (g) of the April 1, **1973** Master **Agreement** that I engaged in outside employment during the nation wide rail strike which began July 10, **1978**.

I have been advised by fellow employees that I was dismissed in violation of the April 1, **1973** Master Agreement which states an employee will not be **disciplined** or dismissed without **investigation** and hearing and will have the right to be present.

I desire to return to the service of the Norfolk & western Railway **Company** with all seniority rights and privileges unimpaired.

Request **backpay** check for wages due me from the termination of the old contract and until beginning of the new contract."

OPINION OF BOARD: Claimant R. O. Crawford **was** dismissed from the service of the Carrier on October **12, 1978**, for engaging in outside employment **while allegedly** off account sickness in violation of Rule **17 (g)** of the applicable agreement.

Claimant served notice of intent to file his dispute with this Board on **July 6, 1980**. A review of the record reveals that Claimant never presented a grievance to Carrier under the applicable agreement, nor did he attempt to handle the dispute on the property. The claim, therefore, **was not handled as** required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of this Board. See Awards 19785 and 20165, Referee Sickles, Award 16786, Referee **Zumas** and Award 18322, Referee **Dorsey**.

The claim is barred **from** consideration by this Board and 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 **Employes** involved in this **dispute are** respectively Carrier **and Employes** 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. Paulson
Executive Secretary

Dated at **Chicago, Illinois,** this **8th** day of **December 1981.**

