

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23871
Docket Number MS-24064

Ida Klaus, Referee

PARTIES TO DISPUTE: { Gary L. Cook
{ Kansas City Terminal Railway 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 (30 days from date of this notice) covering an unadjusted dispute between me and the Kansas City Terminal Railway Company involving the question:

claim# SG-1.80.140 Case # 5505."

OPINION OF BOARD: This petition is not properly before the Board and my not be considered by us.

As the record discloses that the claim was not first presented on the property and that no conference at that level was requested or held, we must find that this dispute was not handled "in the usual manner" as required by Section 3, First (i), of the Railway Labor Act.

Accordingly, the Board is barred from proceeding with the merits of this claim, and the claim must be dismissed.

Numerous awards of the Board over the years have established that the Railway Labor Act vests authority in this Board to consider and decide the merits of a dispute only after the prerequisite statutory procedure on the property has been followed.

The plain purpose of the statutory requirement is to encourage the parties themselves in informal face-to-face conference discussion on the property to arrive at their adjustment of the dispute in an amicable way at the earliest possible time. When these efforts fail, then the right of formal referral of the dispute to this Board becomes available to the parties. That right is not now available to the petitioner.

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.

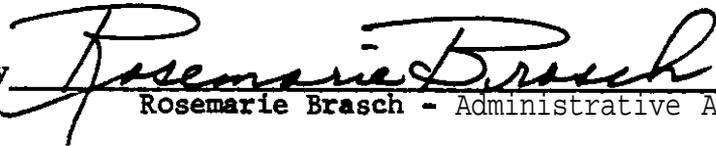
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of May, 1982.

