CORRECTED

NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 24061

THIRD DIVISION Docket Number MS-24322

Edward M. Hogan, Referee

PARTIES TO DISPUTE: (Vicki Lynne Laird
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(Southern Railway Company

STATEMENT OF CLAIM: "I intend to file a submission stating that during my employment with Southern Railway, I was discriminated against because of weight by management Of Management Information services (MIS) department. That this resulted in au earlier resignation, and after exposing this diecrimination, I was reinstated. I intend to show that after my reinstatement, management continued their harrassment -- only designed towards other areas of my performance. That I had a sick child (fractured skull) and my attendance record suffered -- and that although this was a temporary situation until he recovered and management was aware of these problems, they continued every effort to reprimand me about my attendance.

Further, that I was placed on Extra Board on June 16, 1980. That management did not allow me to be considered for other departments because of my attendancerecord. That they withheld the real reasons I had been out from other departments -- and that the manager of MIS, himself, told me not tobotherbiddingout because he would not give me agood recommendation.

That after being placed on Extra Board, I knew I could not keep the requirements of the rules that Southern placed. That they placed their own "rules" instead of union rules, and that after Ihadresigmdthe rules changed to what they should have been all along. That management wasaware Icouldn't keep the Extra Board rules, but didn't care, and that I was harrassed, verbally tortured, "screamed" at, called names, and threatenedconstantly over the phone. They sent me registered letters of warning, reprimand and suspension.

That I was treated inhumane, callous and without consideration. That Ibeggedtobe placed on furlough -- Waited for an answer -- finally the answer was typed on the same day I typed my resignation -- and that I immediately tried to withdraw the resignation, but was denied.

That I was originally turned down for employment benefits by the Railroad Retirement Board. But that after a full year of appeals and intense investigation, the full truth was compiled (which will be submitted in my submission as evidence) and the decision was reversed -- and my appeal granted on the grounds that although I did submit my resignation, it certainly was not voluntary.

That I was a loyal employee -- in spite of my treatment -- and that my work was excellent -- and that I was there until forced off my job.

In accordance with my suit, I intend to show how my family has suffered -- how our lifestyle has changed dramatically -- and how we are continuing to suffer because of the losing of my livelihood. That I needed my job to support my family and to live. And that my own self-confidence and self-worth has been virtually destroyed by my treatment.

It is my intention, therefore, to ask to be reinstated as an employee of Southern Railway, 125 Spring St., Atlanta, Ga., in whatever department there is an opening -- with my seniority unimpaired and reinstated, and with my back pay as of July 11, 1980."

OPINION OF BOARD: Ms. Laird, the Claimant, left the service of the Carrier by way of resignation effective July 16, 1980. In her appeal to this Board, she claims that the "resignation" was other than voluntary.

This Board has no recourse other than to dismiss the claim of Ms. Laird for a number of reasons. First, the Railway Labor Act of 1934, as amended, and regulations issued pursuant to the Act (i.e., Circular #1), clearly prohibit this Board's jurisdiction to consider Claimant's petition. Second, Rule 003, paragraph l(a) of the May 1, 1973 Agreement between the Carrier and the Organization representing Ms. Laird explicitly details the procedures to be utilized in considering the dispute/grievance as presented in Ms. Laird's claim. Claimant failed to avail herself of these procedures and this Board is powerless to act in any other fashion than to dismiss the claim. Both the Act and the Agreement clearly spell out the manner in which these cases should be presented at the first level; this Board is not able, as Ms. Laird wishes, to consider this matter for the first time. We are governed by the Act and the parameters of the Agreement, neither of which give us authority to consider this matter.

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; aud

That the Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Thin-i Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of December 1982.