NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24439
Docket Number MS-24935

PARTIES TO DISPUTE: (Arthur M. Di Stefano
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "On or about June 7, 1978 I was dismissed by the Consolidated Rail Corporation for the following reasons; failure to report for duty on two tours on two certain days.; my rebuttal is that I did call in on these two certain days and report I would not be at the assignment for different types of problems fulfills my responsibility, failure to be relieved on a certain day twenty minutes before completion of tour; my rebuttal is that I informed the man on duty of a need to submit a manual report to the Operation control facility at the thirtieth Street Station because of Computer Systems problems." (etc.)

OPINION OF BOARD: Claimant entered the service of the Carrier as a telegrapher on June 14, 1968 and at the time of the incident involved in his dismissal, April 29, 1978, he was employed as a Wire Chief in the "PC" office located in Reading Terminal, Philadelphia, Pennsylvania. The Claimant was charged, granted a hearing and found guilty of sleeping on duty. His employment record was reviewed, which the Carrier felt justified the assessment of discipline of dismissal. A claim was appealed on the property and denied on August 21, 1978 by the Senior Director, Labor Relations. Thereafter, on April 27, 1979, Petitioner filed a claim with the Third Division. He "cancelled" this claim on the following day and a new claim was filed on May 23, 1979. Under date of November 26, 1979, the Petitioner requested cancellation of this Second claim and we issued our *Award* 22656, dismissing the matter.

On September 22, 1982, the Petitioner filed another dispute, the one we have before us now, with the Third Division dealing with his dismissal from the Carrier "on or about June 7, 1978" for an alleged "failure to report for duty on two tours on two certain days."

The Carrier contends initially that Petitioner's claim is substantially different from the claim originally handled on the property. Carrier also raises other procedural arguments which they contend prohibit our consideration of the claim on its merits.

Our review of this complicated and disoriented handling establishes that Claimant's petition is procedurally defective for several reasons, including his failure to comply with the 12-month time limit requirements for submitting his claim to this tribunal; his attempt to refile and relitigate a final and binding decision; and his failure to handle the present claim in the usual manner on the property. For all of these reasons, the claim must be dismissed.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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: Acting Executive Secretary
National Railroad Adjustment Board

By _____
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 15th day of June 1983.