

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26077  
Docket Number MS-25681

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Dalton Cook  
(  
(Burlington Northern Railroad

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it improperly closed the service record of Trackman D. Cook (System File B-2128/MWC 82-10-25.
- (2) Trackman D. Cook would like to have an oral hearing."

OPINION OF BOARD: The dispute properly before the Board was set forth in Petitioner's (Claimant) letter of January 30, 1984, addressed to the Executive Secretary of this Division of the National Railroad Adjustment Board, serving notice of intention to file an Ex Parte Submission. In the letter of January 30, 1984, the Petitioner also stated:

"(2) Trackman D. Cook would like to have an oral hearing."

The dispute was docketed by this Division as MS-25681. On May 13, 1985, the Petitioner and the Carrier were notified that Hearing before the Division, with the Referee sitting as a Member thereof, was scheduled for 3:30 P.M., June 21, 1985. The Hearing was conducted as scheduled, but Claimant was not present nor represented.

The record shows that Claimant's record was closed by letter from the Carrier dated May 26, 1982. He was restored to service with all rights intact, but without pay for time lost May 28, 1982 through June 22, 1982. Claim for pay for time lost May 28, 1982 through June 22, 1982, was progressed in the usual manner on the property and submitted to this Board by the Brotherhood of Maintenance of Way Employees, the Collective Bargaining Unit representing the Craft in which Claimant was employed by the Carrier. That dispute was docketed as MW-25415, and adjudicated by Award No. 25835.

The Claim herein, submitted to the Board by the Petitioner (Claimant), involves the same Agreement, the same Rules and arose out of the same occurrence as involved in Award No. 25835. In our Award No. 25261, with this Referee participating, we held in part:

"We do not consider it the intent of the Railway Labor Act, which has as one of its primary purposes the prompt and orderly settlement of disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay or working conditions, that the National Railroad Adjustment Board repeatedly adjudicate the same dispute involving the same Claimant and arising out of the same occurrence, simply because the claim may be submitted to the Board through different representation."

The same principle has been adhered to in numerous other Awards, including Third Division Awards Nos. 25856, 25262, 24789, 23027.

As the Claim in behalf of Claimant has been adjudicated, the present dispute will 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 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

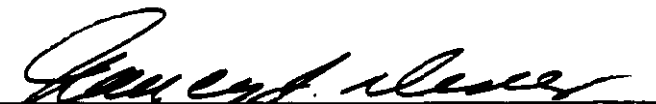
That the Claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1986.