NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 26473

THIRD DIVISION Docket Number MS-27250

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Sterling S. Smith
(
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

"1. By what authority did the representatives of the Carrier and the Brotherhood ignore Rule 9-A-1(b) as set forth in the Agreement between the National Railroad Passenger Corporation (AMTRAK) and the Brotherhood of Railway, Airline and Steamship Clerks?

2. Did the Carrier afford the Petitioner due process and a fair and impartial Hearing?

3. By what authority did the representatives of the Carrier and The Brotherhood agree to a change in a condition of employment so as to single the Petitioner out for 'Special' physical examination which was not in accordance with the general policy of the Carrier nor based upon the medical history of the Petitioner.

4. By what authority did the representatives of the Carrier and The Brotherhood settle the Petitioner's grievances depriving him of compensation for lost time and agree to a full settlement of any and all claims without the Petitioner's participation and concurrence?"

OPINION OF BOARD: The dispute herein was submitted to the Board by the Claimant as Petitioner. On July 29, 1986, Claimant served Notice of his Intention to file an Ex Parte Submission on or before August 27, 1986. The Notice set out the Claim or dispute.

The Carrier contends that the dispute cited by the Claimant in Notice of Intention to file an ex parte submission, dated July 29, 1986, has not been handled in the usual and customary manner in accordance with the provisions of the applicable Collective Bargaining Agreement and the requirements of the Railway Labor Act on the property; that the dispute is not properly before the Board and must be dismissed.

Upon review of the record, we find that the dispute as set forth in Claimant's Notice of Intention to file an Ex Parte Submission, dated July 29, 1986, has not been handled in accordance with the provisions of the applicable Agreement, the requirements of the Railway Labor Act, or Circular No. 1 of the National Railroad Adjustment Board. The Board has no alternative but to dismiss the dispute or Claim.

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 dispute 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 9th day of September 1987.