

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

(Larry Patrick
PARTIES TO DISPUTE: (
(Burlington Northern Railroad Company

STATEMENT OF CLAIM: "Of unjust treatment and discrimination according to Rule 62 and 69 of the Agreement between Burlington Northern Railroad Company and the Brotherhood of Maintenance of Way."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This is a claim by an employee on behalf of himself (and apparently other employees) alleging "unjust treatment and discrimination according to Rule 62 and 69."

Rule 62, Unjust Treatment, concerns the right of an employee to "hearing and appeal" if he considers himself "unjustly treated," and if he makes a timely written request to his immediate superior. The record presented to the Board shows no indication that such written request was ever made.

Rule 69, Non-Discrimination, concerns the pledge of the parties to the Agreement "to comply with Federal and State laws dealing with non-discrimination." Although the claim outlines a series of alleged improper treatment by a supervisor, no showing was made that such treatment, if verified, was on a discriminatory basis.

The Carrier states that at no time was this matter raised on the property as required by Rule 42-A. The Claimant offers no contrary information. Until claims or grievances are handled in the usual manner on the

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property, offering the Carrier an opportunity to rebut allegations and/or to remedy the matter, the Board is entirely without jurisdiction to review the matter. The claim must therefore be dismissed, with advice to the Claimant to pursue the procedure under Rule 62 and/or Rule 42-A if there are matters which can be timely handled under the provisions of these Rules.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of September 1988.