

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

(Robert C. Nicklow
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"I am filing based upon contract violation of Article 26...the working of younger employees and discrimination resulting in my loss of job, severance, and Sub Pay from my employer."

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.

Section 153 First, (1) of the Railway Labor Act provides:

"(1) The disputes between an employee or group of employees and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on June 21, 1934, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes."

It has been consistently held that the Petitioner must progress the dispute ". . . in the usual manner, up to and including the chief operating officer of the carrier. . ." before the dispute can be progressed to this Board. Failing to do so, the Board lacks the authority to take jurisdiction. See Third Division Awards 27912, 25915, 15075.

The record before this Board clearly reflects that Claimant did not progress this dispute on the property ". . . in the usual manner, up to and including the chief operating officer of the carrier. . ." prior to submitting same to this Board. Under these circumstances we have no alternative than to dismiss this Claim.

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 16th day of November 1990.