

Award No. 10845
Docket No. MS-13417

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

JAMES F. RAY

**THE NEW YORK CENTRAL RAILROAD, Eastern District
(except Boston and Albany Division)**

STATEMENT OF CLAIM: Whether James F. Ray was properly separated from service as a clerk with the New York Central Railroad Company; and whether the said James F. Ray was improperly denied an opportunity to "mark up" for Assistant Stationmaster.

OPINION OF BOARD: This is a discipline case. The record in this docket indicates that Claimant was properly notified to and did appear at hearing held by Carrier to develop facts and determine responsibility for Claimant's not working. While at termination of said hearing Claimant raised some question concerning the propriety thereof in respect solely of his representation thereat, the record shows that he proceeded in the hearing without requesting a continuance thereof. Not having requested and been denied a continuance for this or any other reason, we must hold that the hearing was proper.

The record also shows that Carrier properly terminated Claimant's employment relation with the Carrier account his absenting himself from work in violation of Rule 25, and that his appeal therefrom is neither valid nor in compliance with either the handling set forth in Section 3, First (i) of the Railway Labor Act, as amended, or rules of the Agreement between the parties. Consequently, we have no alternative but to deny the 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 Employee involved in this dispute are respectively Carrier and Employee 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of October 1962.