

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

MAURICE GALVIN

GRAND TRUNK WESTERN RAILROAD COMPANY
THE ORDER OF RAILROAD TELEGRAPHERS

STATEMENT OF CLAIM: Violation of Rule 2 — paragraphs (a) and (e), respecting my seniority as Operator-Leverman at Blue Island, Illinois, tower of Grand Trunk Western Railway, dating from October 1, 1956.

OPINION OF BOARD: The petitioner has made this appeal to the Board alleging that both the Carrier and the Organization holding representation of his class or craft have misinterpreted certain agreement provisions thereby depriving him of rights pertaining to his employment.

Both respondents, the parties to the agreements involved, have filed submissions indicating that there is no dispute between them concerning the intent and meaning of the agreement provisions which are questioned by the petitioner, and that such intent and meaning does not support the latter's contentions.

The Carrier, however, also contends that the petition is defective procedurally, so that the Board has no authority to consider or decide the claim on its merits.

This contention is supported by a showing that the claim embodied in this docket was never filed with the Carrier, was not appealed in the regular order up to the highest officer of the Carrier, and thus was not handled in the usual manner. Attention is also directed to the fact, amply supported by the record, that the time limits and procedures for handling grievances prescribed by Rule 30 of the governing agreement were not complied with.

This Board is a highly specialized tribunal, with its duties and powers set out in the Act of Congress which created it. Any action by this Board which is not contemplated by the Railway Labor Act would certainly be unauthorized and likely would be illegal.

The sole duty of the Board is to consider and decide disputes between employees and carriers as those terms are explained in the Act. We have no authority to decide, or even consider, a dispute involving an individual and his union. Therefore, we express no opinion whatever on that aspect of this case.

The Railway Labor Act provides, in Section 3, First (i), that if, after certain described disputes between an employe or group of employes and a carrier or carriers have been handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes, no settlement is reached the parties or either of them may refer such disputes to the Adjustment Board.

The Rules of Procedure of the Board, as set out in "Circular No. 1", contain the following:

"No petition shall be considered by any division of the Board unless the subject matter has been handled in accordance with the provisions of the Railway Labor Act, approved June 21, 1934."

Thus, an absolute prerequisite to consideration by the Board of any petition is a showing that the subject matter has been handled "in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes" prior to its submission to the Board.

The record before us shows that such handling was not given its subject matter. We are, therefore, without the power or authority to consider the petition on its merits. The claim must be dismissed accordingly.

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 Employe involved in this dispute are respectively Carrier and Employe within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has no jurisdiction over the dispute involved herein; and,

That the claim is barred in accordance with the Opinion.

AWARD

Claim dismissed in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1963.