

**Award No. 12776**

**Docket No. MS-12768**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**(Supplemental)**

**Don Hamilton, Referee**

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**PARTIES TO DISPUTE:**

**ANTHONY GUARINO**

**THE NEW YORK, NEW HAVEN AND HARTFORD  
RAILROAD COMPANY**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**STATEMENT OF CLAIM:** The petitioner alleges that on September 30, 1958, he was wrongfully displaced in his job capacity as a track machine operator by L. Carangelo, the latter having inferior seniority rights to the petitioner with respect to said job of track machine operator.

**OPINION OF BOARD:** This claim raises the question of the jurisdiction of this Board to hear the instant dispute. The Agreement provides a definite procedure for the processing of such claims and grievances. We are governed by Section 3. First. (i) of the Railway Labor Act, which provides the proper method to be followed in submitting such a claim.

An examination of the record, as to the procedure used in processing this claim, clearly discloses that the said claim was not appealed to, "the chief operating officer of the carrier designated to handle such disputes", and hence the Board is without jurisdiction to inquire into the merits of the claim. The same is therefore dismissed.

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

That this Division of the Adjustment Board does not have jurisdiction over the dispute involved herein; and

That the claim has not been presented in accordance with the procedures established by the Railway Labor Act, or by the Agreement.

**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 Employees involved in this dispute are respectively Carrier and Employees 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 Agreement was violated.

**AWARD**

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **THIRD DIVISION**

**ATTEST: S. H. Schulty**  
Executive Secretary

Dated at Chicago, Illinois, this 17th day of July 1964.