

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

JOE CAUTHRON

**MILWAUKEE-KANSAS CITY SOUTHERN JOINT AGENCY
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

STATEMENT OF CLAIM: Please take Notice that Joe Cauthron intends to file ex-parte submission of grievance against the employer, a Railroad carrier, the Kansas City Southern Railway Company, thirty days from the date this notice is given. Filing is before National Railroad Adjustment Board, Third Division.

The question involved is the failure of the employer to restore the employe to active duty by alleging that his health difficulty had not been corrected, yet such was not the case; employe has been unable to learn from the bargaining agent whether all administrative steps in the grievance procedure have been exhausted, but he has attempted to exhaust all such procedures.

A copy of this Notice has been mailed to the Chief Operating Officer of the carrier involved, this 22nd day of May, 1967.

OPINION OF BOARD: The Claimant attempts before the Board to assert a claim that the Carrier and the Brotherhood of Maintenance of Way Employees violated the effective Agreement covering Carrier's Maintenance of Way Employees.

This Board is without jurisdiction to decide a dispute between an employe and his Organization (Section 3, First (i) of Railway Labor Act). We must, therefore, dismiss the claim against the Brotherhood of Maintenance of Way Employees.

Joe Cauthron, a track laborer, was taken out of service on December 8, 1964, because of high blood pressure. He re-applied for duty, and on March 30, 1965, he was given a physical examination by the Chief Surgeon of Carrier, who reported that his blood pressure was still too high to return to active duty, although Claimant stated he had been taking medicine prescribed by his personal physician.

In a report dated May 21, 1966, Carrier received a blood pressure reading of Claimant from his private physician, Dr. J. W. Young, who advised