

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John B. Criswell, Referee

PARTIES TO DISPUTE:

H. R. GRIMMER

ILLINOIS CENTRAL RAILROAD

STATEMENT OF CLAIM: That:

(A) Carrier violated the Agreement between the parties when on July 28, 1967, it dismissed H. R. Grimmer, formerly employed as a Clerk, Memphis Coach Yard Office, Memphis, Tennessee, from the service following an investigation held on July 24, 1967.

(B) Clerk H. R. Grimmer shall be reinstated to the service of the Illinois Central Railroad with all seniority unimpaired and compensated for all time lost.

The Illinois Central Railroad Company's file number on this claim is 131-296-118 Spl.

OPINION OF BOARD: Claimant admits in the record of this case that no conference was held on the property attempting to resolve the dispute. He raises three points (1) the Agreement authorizes Claimant to request a conference; (2) in Award 13453, also involving this Claimant, no conference was held on the property; (3) the conference should be held "if desirable."

We find that the Agreement's authorization is not in dispute, but in harmony with the Railway Labor Act's provisions requiring a conference on the property.

We also find that in the cited case (Award 13453), the General Chairman and the Carrier did discuss the matter in conference. Carrier's Exhibit B, page 102, of the record in that case says:

"This will confirm discussion of this case in conference."

As to the third point, this Board in Award 14873 (Ritter), said:

"No matter how futile a conference may be, a conference must be held on the property prior to submission of a claim to this Board. Otherwise, this Board has no right to consider the claim in question."

For the foregoing reasons, this claim will not be considered on its merits.

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 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 no jurisdiction over the dispute involved herein.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of February, 1969.

NATIONAL RAILROAD ADJUSTMENT BOARD**THIRD DIVISION****Interpretation No. 1 to Award No. 16964****Docket No. MS-17712****Name of Employee:****H. R. GRIMMER****Name of Carrier:****ILLINOIS CENTRAL RAILROAD**

Upon application of the employee involved in the above Award that this Division interpret the same in the light of the dispute between the parties as to its meaning and application, as provided for in Section 3, First (m) of the Railway Labor Act, as approved June 21, 1934, the following interpretation is made:

In dismissing this case, it was found that the requirements of the Railway Labor Act had not been met in the handling of the claim on the property. It was undisputed by the parties that no conference had been held prior to submission to this Board.

We now are asked to interpret the decision, particularly answering the question: Did Award 16964 decide the claim or merely determine that it was premature?

It has been held by this Board that a dismissal is a final determination. Award 9376 (Stone) said:

"The award of dismissal, whether or not it was improper was a final determination of want of jurisdiction and a final disposition of the claim."

Interpretations by this Board have held consistently that under Section 3 First (m) of the Railway Labor Act its jurisdiction is limited to interpreting or clarifying the Award itself and that it may not consider or review the correctness of the award or question the reasoning on which it was based.

Consequently, the dismissal was final and binding.

Referee John Criswell who sat with the Division, as a neutral member, when Award No. 16964 was adopted, also participated with the Division in making this interpretation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1970.

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