



Award Number 17794

Docket Number MS-18414

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

MR. ANTHONY KINNON

THE PULLMAN COMPANY

STATEMENT OF CLAIM: You will please take notice that on October 10, 1969, the undersigned will file an ex parte submission on behalf of Anthony Kinnon with the Third Division of the National Railroad Adjustment Board pursuant to the provisions of that certain Mediation Agreement in Case A-7128 Sub 2, Article V, Section 1.

1. The parties to this dispute are:

Anthony Kinnon
3309 Edgewood Avenue West
Jacksonville, Florida 32209, and

The Pullman Company
165 No. Canal Street
Chicago, Illinois 60606

- 2. A brief statement of the dispute is as follows:** For a long period prior to November 13, 1967, Anthony Kinnon was employed by the aforementioned Pullman Company as a Pullman Porter; that at the time of Mr. Kinnon's original application for employment with the Pullman Company, an application was filed stating the date of birth of said Anthony Kinnon as April 7, 1902, when in truth and in fact Anthony Kinnon's correct date of birth was April 7, 1904; the correct date of birth was made known to the Pullman Company and also to the Railroad Retirement Board as early as the 7th day of February, 1941; that thereafter, a Mediation Agreement was entered into, Case A-7128 Sub 2, providing a Separation Allowance be paid to employees based upon the length of service and age of said employees; according to said Agreement, any separated employee with five years or over length of service and whose age did not exceed 65 years and 1 month would be entitled to a separation allowance equal to 2,880 hours; said Agreement further provided that any employee who was age 67 would be entitled to a separation allowance equal to 1,440 hours; that notwithstanding the Pullman Company's knowledge of Anthony Kinnon's correct birth date of April 7, 1904, said Anthony Kinnon was tendered a separation allowance equal to 1,440 hours, and the said Pullman Company has failed and refuses to pay to said Anthony Kinnon a separation allowance according to his correct birth date of April 7, 1904.

OPINION OF BOARD: The record indicates that the claim which Petitioner is attempting to assert before this Board was not handled on the Carrier's property pursuant to the provisions of the collective bargaining agreement and as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railway Adjustment Board. Accordingly, the claim is barred from consideration by the Division and will be dismissed.

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 jurisdiction over the dispute involved herein; and

That the facts of record show that this matter has not been properly progressed to the Board.

A W A R D

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of March 1970.