

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19227
Docket Number MS-19407

Thomas L. Hayes, Referee

(Edward F. Sanders

PARTIES TO DISPUTE: (

(The Atchison, Topeka and Santa Fe Railway Company
(- Dining and Sleeping Car Service -

STATEMENT OF CLAIM: I was employed by the Santa Fe Railroad Dining Car Department on February 18, 1937 and discharged on January 24, 1963 due to the following facts.

On January 4, 1963 I went to court on a marital dispute and lost the case; I was put into jail on that same day, two days later I applied to the personnel supervisor, Mr. W. H. Ford of the Santa Fe Railroad for a leave of absence, from my job which was in order and in the allotted time. I was released on January 24, 1963. I went immediately to my personnel supervisor, Mr. W. H. Ford, and I was informed by him that my request for a leave was denied and that I was no longer employed by the Santa Fe Railroad Dining Car Department, even though my request had been in order, he denied it.

In my distress and anguish as I did not want to go back to jail, as it was horrible there, I went to my union for assistance and was told that a hearing would be set up at a later date. My personal business was pressing me to the point that I panicked and came to Los Angeles. When I arrived here I was sick; on going to the doctor I found out I had penumonia (sic) and was put immediately into the hospital in Gardena, California. The name of the hospital escapes me at this time, but it can be proven as it was a hospital that is used by all union employees. I was hospitalized approximately six weeks.

My next correspondence with Mr. Ford was a letter from him telling me to return to him my annual pass as I was no longer an employee for the Santa Fe Railroad and could not use it. So when the letter came I was in the hospital and could not get out to go to the hearing as I was too ill and with no pass nor monies to make the trip with, as I had then been out of work for about 6 or 7 weeks. The money I had when I left Chicago was depleted.

I feel the case at hand could have been avoided completely had I been granted a leave of absence at the time needed as I could have been given a chance to adjust my personal affairs, which I am happy to say have all been settled since that time, and I would like to have my job back as I do need it and I am fully capable physically and yet not at the retirement age.

I do have a good working record with the Santa Fe and on the job which I presently hold for dependability and responsibility.

Please notify me as soon as you have started proceedings necessary for my reinstatement. I am sure that through your board I will receive the justice due me.

OPINION OF BOARD: Review of the record in this docket clearly shows that the claim Petitioner is attempting to assert before this Board was not handled on the property of the Carrier in accordance with the provisions of the applicable collective bargaining agreement and as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board.

The claim in this case was not handled through Carrier's highest officer designated to handle appeals. Moreover, it was over eight years before this dispute was referred to the Board for adjudication.

In view of the foregoing, the Division cannot consider the case on its merits and the claim is 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 Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1972.