

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20579
Docket Number MSX-20485

Frederick R. Blackwell, Referee

PARTIES TO DISPUTE: (B. B. Sensabaugh
(
(REA Express, Inc.

STATEMENT OF CLAIM: Whether the provisions of Rules 3(0) and 12(b) of the agreement dated January 1, 1967, between the Railway Express Agency, Inc., and its employees were complied with when my bids for certain job openings were not accepted but instead said jobs were given to other employees who would not have priority for said specific jobs under the terms of 3(0) and 12(b).

OPINION OF BOARD: In 1971 some positions were abolished in connection with a consolidation program which involved the Carrier's offices at Lexington, Staunton, and Covington, Virginia. The Carrier's assignment of employees to the remaining or new positions is the subject of the Claimant's contention that the Carrier violated his rights under Rules 3(0) and 12(b) of the Agreement.

The Carrier objects to jurisdiction in that the claim in its present form is not the same as the claim handled on the property, and that the initial claim was not submitted to the proper Carrier official. In support of its jurisdictional objection, the Carrier states that a claim was presented to the Asst. Regional Manager concerning the discontinuance of Claimant's position and the alleged use of the Claimant on an extra basis to perform the same work. The Carrier asserts, however, that this allegation involves Rule 3(b) and in no way touches upon the rules raised before the Board on Claimant's behalf, Rules 3(0) and 12(b). The Carrier further asserts that the Agent at Staunton, Virginia, rather than the Asst. Regional Manager, was the Carrier official to whom a claim should have been submitted in the first instance.

The Carrier's contention is borne out by the record. Indeed, the facts of record make it abundantly clear that the claim presented to the Board is not only substantively different from the claim handled on the property, but also was handled in a manner which renders it procedurally defective under the text in Circular No. 1, NRAB, providing that:

"No petition shall be considered by any division of the Board unless the subject matter has been handled in accordance with the provisions of the Railway Labor Act, approved June 21, 1934."

The referrant of the above text is Section 3, First (i) of the Railway Labor Act which requires that disputes:

"...shall be handled in the usual mannner up to and including the chief operating officer of the Carrier designated to handle such disputes;..."

In view of the foregoing, we shall dismiss the claim. For opinions consistent with this opinion and ruling, see Award Nos. 19951 and 20091.

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 Employes involved in this dispute are respectively Carrier and Employes 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

The claim is dismissed on procedural grounds.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 17th day of January 1975.