

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20737
Docket Number MS-20663

Robert A. Franden, Referee

(Moses Ruffin, Ind. & on behalf of others
(similarly situated
PARTIES TO DISPUTE: (
(George P. Baker, Robert W. Blanchette, and Richard
(C. Bond, Trustees of the Property of
(Penn Central Transportation Company, Debtor

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on January 15, 1974 covering an unjust dispute between my clients, Moses Ruffin, Individually and on behalf of others similarly situated, and The Penn Central Transportation Company, involving the question:

Where a Brotherhood serves notice under Section 6 of the Railway Labor Act that it desires to change an existing agreement with the carrier, and in the midst of negotiations for a new agreement the carrier terminates the existing agreement, are not the employees entitled to earnings lost as a result of the carrier's unilateral abrogation of the existing agreement?

OPINION OF BOARD: The record is clear the claim the Petitioner is attempting to assert before the Board has not been handled on the property in accordance with Rule 7-B-1, of the Agreement of May 1, 1942, nor the requirements of Section 3 First (i) of the Railway Labor Act or Circular 1 of the National Railroad Adjustment Board. In addition, no conference was ever held on this property prior to submission of the dispute to this Board in conformity with Section 2 First, Second and Sixth of the Railway Labor Act and Section 3 First (i), and for that reason also, the Board lacks jurisdiction and we must dismiss the claim.

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 Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

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That this Division of the Adjustment Board has jurisdiction
over the dispute involved herein; and

That the Claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 30th day of May 1975.