

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20837
Docket Number MS-20894

Dana E. Eischen, Referee

PARTIES TO DISPUTE: (Robert S. Dyer
(
(Illinois Central Gulf Railroad Company

STATEMENT OF CLAIM: This is to serve notice as required by the Rules of the National Railroad Adjustment Board, of my intention to file ex parte submission covering an unadjusted dispute between Robert S. Dyer and Illinois Central Railroad Company involving the improper and unlawful discharge of Robert S. Dyer on February 20, 1969.

The submission is enclosed and has been sent to the other parties' attorney.

OPINION OF BOARD: Claimant and Petitioner Robert S. Dyer, by decision of Carrier's highest officer designated to handle claims or grievances, on April 24, 1969 was discharged for failure to comply with the requirements of the Union Shop agreement. This decision was reaffirmed on July 18, 1969. On September 13, 1972 Claimant filed with this Board a petition for review which was procedurally defective and accordingly returned for compliance with the Railway Labor Act and Circular No. 1. On August 2, 1974 attorneys for Claimant filed notice of intent to file an ex parte submission.

Rule 700 of the controlling Agreement provides in pertinent part as follows:

"... All claims or grievances involved in a decision by the highest designated officer shall be barred unless within 9 months from the date of said officer's decision proceedings are instituted by the employe or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board or a system, group or regional board of adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. .."

Carrier raises several jurisdictional and procedural objections in this case, including that Claimant failed to comply with the requirements of Rule 700 viz: that he did not within nine (9) months of the labor relation director's decision institute proceedings before this Division. Carrier points out that the Agreement requirement is clear and that this Board has numerous times held that claims not progressed within the specified period of time are barred. See Awards 4072, 5250, 5425 (Second Division), and 13307 (Third Division.)

We have reviewed the record carefully. Viewing the facts most favorably to Claimant, without conceding that the attempted filing of September 13, 1972 was effective, it still must be found that he waited three years after the final reaffirmation of his dismissal to institute proceedings before this Board. There can be no doubt that such procrastination was at his peril and must prove fatal to his case. In the face of the clear language of Rule 700, the policy of promoting diligent grievance processing and innumerable awards on this subject, we have no alternative but to 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;

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

The claim is time-barred and must be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauler
Executive Secretary

Dated at Chicago, Illinois, this 24th day of October 1975.