

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20889
Docket Number MS-21091

Lloyd H. Bailer, Referee

(James W. Britton

PARTIES TO DISPUTE: (

(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: This is to serve notice as required by the rules of the National Railroad Adjustment Board of my intentions to file an X-party submission on thirty days from the date of this notice covering an unjust dispute between the B&O Railroad and parties involved stated as being Charlie Digrutollo, track supervisor, E. L. Moser, division engineer, and C. E. Patterson, track forman.

The statement is as follows: they had me charged with involuntary unexplained absence, and to appear for a hearing at the train masters office, in Parkersburg. I contacted both parties and told them I could not be there at the time stated, so they told me to contact my union representatives, W. E. Lyons, in which I did. His office said they would contact him and have it set for a latter date.

In the mean time, I was layed off on June 30. I have written to both offices to have them hold my seniority rights. Mr. Patterson stated to me latter that they had held the meeting without my presents, and stated that when they would ask me a question in the hearing they would but down no answer, so how could I answer if I wasn't present?

Mr. Oday, B&O police at Parkersburg, at a later date brought me to a letter, where I had been taken out of service and wanted me to sign it which I refused to do. I believe this to be very unfair and unjust, and I would like to have an oral hearing on this matter, so I could return to my job.

OPINION OF BOARD: Careful scrutiny of the record shows that the claim asserted before this Board was not progressed on the property in accordance with the requirements of Section 3 First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. Claimant disregarded Rule 48(d) of the controlling Agreement and filed his claim with this Board without first availing himself of appeal procedures specified in said Rule.

In these circumstances the claim is not properly presented for consideration on the merits and therefore must be dismissed.

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FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December 1975.