

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21272
Docket Number CL-20916

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

{ Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employees
{ Robert W. Blanchette, Richard C. Bond and John H.
McArthur, Trustees of the Property of Penn Central
Transportation Company, Debtor

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-7713) that:

(a) The Carrier violated the Rules Agreement, effective February 1, 1968, particularly Rule 7-A-1, when it denied a request for an investigation, under the provisions of that rule, made by David Speller, Clerk, Office of Revenue and Car Accounting, System General Office, Philadelphia, Pa.

(b) Upon finding for the Claimant, the Board is requested to assess a suitable penalty upon the Carrier solely for the purpose of enforcing the provisions of the Agreement, in particular Rule 7-A-1.

OPINION OF BOARD: The record before us attests that the Claimant did consider himself harassed by repeated testing after being awarded the position in question. The Organization requested a hearing in accordance with Rule 7-A-1 to determine the facts surrounding the grievants' disqualification. The request for a hearing was timely. A hearing to determine the facts surrounding the grievants' disqualification was and is proper and in order. Therefore we will remand this case back to the parties for a hearing on appeal and representation as provided in Rule 6-A-1. Such a hearing is to determine the facts surrounding the grievants' disqualification.

Any wage loss of Claimants would be the subject of a dependent claim for compensation filed by the Organization in Claimant's behalf. Therefore at this time we will dismiss B of the statement of instant 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;

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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 Agreement was violated.

A W A R D

This claim is remanded back to the parties to determine the facts surrounding grievants disqualification. That part of the claim requesting a suitable penalty is dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 15th day of October 1976.