

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21726
Docket Number MS-21630

Robert W. Smedley, Referee

PARTIES TO DISPUTE: (V. J. Nunes
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: My claim revolves around the Virginian Railway/
Norfolk & Western Railway Merger Agreement of
1959, and indirectly the Wabash-Nickel Plate-N&W Railway Merger Agreement
of 1964, and the Master Agreement of April 1, 1973. The main gist of my
claim is the changing of seniority districts in which three individuals
were frozen, which districts were away from their homes (at the time, we
all had System Seniority). The three persons frozen were Mike Holdren,
Joe Cook and V. J. Nunes, myself. Two employees were allowed to transfer,
Mike Holdren and Joe Cook, to the district in which they lived and the
third, namely myself, was refused the same right many times.

OPINION OF BOARD: Section 3, First (i) of the Railway Labor Act
mandates that all disputes must be "handled in the
usual manner" on the property before they may be submitted to this Board
for adjudication. Section 2, First, Second and Sixth of the Railway
Labor Act requires that the parties to a dispute "exert every reasonable
effort to settle disputes" arising between them and further requires
that such disputes be considered "in conference" on the property. Both
of these requirements are jurisdictional and cannot be waived. Both are
essential conditions precedent to any case being referred to this Board.

The record of this case is clear. There was no handling of
the claim herein "in the usual manner" beyond the initial presentation
to the Division Superintendent. There was no conference relative to
this claim held on the property at any time. For these reasons, we must
dismiss the claim for lack of jurisdiction.

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 the claim was not progressed on the property as required
by the Railway Labor Act; and

That this Division of the Adjustment Board does not have
jurisdiction to decide the dispute involved herein on its merits.

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Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A.W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 29th day of September 1977.

