

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21926
Docket Number MS-21938

John P. Mead, Referee

PARTIES TO DISPUTE: (Dalbert C. Johnson
(and
(Vancel E. Lind
(
(Duluth, Missabe and Iron Range
(Railway Company

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of our intention to file an ex parte submission on January 5, 1977, covering an unadjusted dispute between us and the Duluth Missabe & Iron Range Ry., involving the question:

Time claim for being laid off in motor car shop of which has been B & B work for over 30 years.

Time claim for improper lay off notice from motor car shop.

Time claim for refusing me, Dalbert Johnson, the right to bump swing loader operator at ore docks.

Track department violating truck driving and welding rules.

Pay raises for track department mechanics and machine operators only.

Tools furnished for track department mechanics only.

Supplement #7 is a job protection agreement and is not to be used unless job protection is involved which is not the case in Proctor repair shop.

We want the motor car repair work back in B & B where it has been for over 30 years.

OPINION OF BOARD: Careful examination of the entire record, which includes submissions of the Petitioners (individuals) and Respondent Carrier, discloses that this dispute is not one over which this Board has jurisdiction. The record discloses that the dispute is an articulate expression of Petitioners' dissatisfaction over the terms and provisions of Agreements between Respondent Carrier and the Brotherhood of Maintenance of Way Employees.

Section 3, First (i) of the Railway Labor Act confines the jurisdiction of the National Railroad Adjustment Board to disputes concerning "the interpretation or application of agreements concerning rates of pay, rules, or working conditions." The Board has no jurisdiction to consider allegations concerning the legality of Agreements entered into under provisions of the Railway Labor Act. An individual's expressed dissatisfaction with the terms and provisions of such Agreements, and allegations that Agreements are illegal or discriminatory without even a hint of allegation that the Agreement is not being properly applied, clearly constitutes a case over which the Board lacks jurisdiction. See Awards 13830, 19142 and 20078. This dispute involves the validity of the contract - not its meaning. Accordingly, the Claim will be dismissed.

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

The Board lacks jurisdiction.

A W A R D

Claim dismissed.



NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A. W. Paulsen*
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1978.