

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22164  
Docket Number MS-22258

Abraham Weiss, Referee

PARTIES TO DISPUTE: (Kristopher M. Perdue  
(  
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: (A) Discrimination from the Roadmaster.  
  
(B) Suspension for 30 days, by the assistant Roadmaster Roger Deemer who stated that I did not report off sick.

OPINION OF BOARD: Claimant, an Extra Force laborer, entered Carrier's service July 14, 1976. Claimant absented himself from assigned duties without proper authorization on April 28 and May 2, 1977. His immediate supervisor, by letter dated May 2, 1977, advised him that disciplinary action would be taken should claimant's current absenteeism trend continue. On May 3 and 4, 1977, claimant was again absent without notification to his supervisors. Claimant was advised by letter that he was being assessed a thirty (30) day deferred suspension which would be terminated by maintaining a clear record for one year. On May 17 and 18, 1977, claimant again failed to report for duty or to notify his immediate supervisor. Carrier then advised claimant, by letter, that he was being assessed thirty (30) days' actual suspension. By letter dated August 22, 1977, claimant submitted claim to this Board, alleging: (a) discrimination by the roadmaster; and (b) suspension without reason for thirty (30) days by the assistant roadmaster, who stated that he (claimant) did not report off sick.

The difficulty is that the claim has not been submitted in accordance with the procedures of Rule 35 -- Time Limit on Claims -- at the property level. Instead, the claim was filed directly with the Board.

Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board require that disputes be processed in the manner and according to the steps prescribed in the Parties' Agreement, before they may be submitted to this Board for resolution. Given the fact that these requirements were not fulfilled, we have no choice but to dismiss the claim without consideration of its merits.

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 lacks jurisdiction over the dispute involved herein; and

That the claim was not progressed on the property as required by the Railway Labor Act.

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 31st day of July 1978.

