

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22272
Docket Number MS-22339

Don Hamilton, Referee

PARTIES TO DISPUTE: (Vaughn Nickel
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(Chicago and North Western
(Transportation Company

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on February 25, 1978, covering an unadjusted dispute between me and the Chicago & Northwestern Transportation Company involving the following questions:

1. Expense including mileage driven, camp car, linen, and meals. (April through September, 1976.)
2. Back wages for travel time. (April through September, 1976.)
3. Missed job opportunities due to job posting and notification violative of the agreement.
4. Omission of employee from seniority list. (May, 1976.)
5. General damages as result of misinformation about expenses, holiday pay, camp car pay, mileage expenses, auto expenses and attempt by employer to force resignation.

OPINION OF BOARD: The claim filed with this Board is presented as follows:

- (1) Expenses including mileage driven, camp car, linen, and meals. (April through September, 1976)
- (2) Back wages for travel time. (April through September, 1976)
- (3) Missed job opportunities due to job posting and notification violative of the agreement.
- (4) Omission of employee from seniority list. (May, 1976)

- (5) General damages as result of misinformation about expenses, holiday pay, camp car pay, mileage expenses, auto expenses and attempt by employer to force resignation.

In regard to the first assertion, there is evidence that a claim was submitted on behalf of Claimant and others covering the period May 24, 1976, through August 23, 1976. This claim was progressed and by letter dated March 24, 1977, the parties disposed of the same in its entirety by allowing each claimant a stipulated amount. It is asserted that the Claimant has not received this payment. The Carrier is awaiting the preparation of additional expense claim forms. The Board notes that the March 24, 1977, settlement simply stated that "adjustments will be made accordingly". The Carrier is directed to pay the agreed upon amount to the Claimant forthwith. There is no necessity for the preparation and filing of additional claim forms.

In regard to the fourth assertion, the name of the Claimant was omitted from the appropriate seniority roster March 1, 1977. A timely appeal was made and the omission was corrected shortly thereafter. Therefore, this claim is moot.

These were the only two matters handled in the usual manner on the property.

Concerning that portion of Claim No. 1 not comprehended in the March 24, 1977, letter, as well as Claims No. 2, 3 and 5, the record indicates that these matters were never handled through the grievance machinery of the controlling Agreement. On this record, it is clear that these matters were not presented and 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. As such, these contentions are barred from consideration by this Board and must be dismissed. Awards 17005 (McGovern), 20328 (Blackwell), 20613 (Lieberman), 21868 (Zumas), 21966 (Sickles), among a host of others.

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

A W A R D

Claim disposed of in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 12th day of January 1979.