

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22318
Docket Number MS-22257

Dana E. Eischen, Referee

PARTIES TO DISPUTE: { John C. Fitch
{ Consolidated Rail Corporation

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 covering an unadjusted dispute between me and Consolidated Rail Corporation involving the question:

- (1) Unfair Labor Practices
- (2) Total Violation of the Agreement between the Brotherhood of Railway Clerks and Reading Railroad in effect since March 21, 1972 in accordance with the Railway Labor Act.
- (3) Collusion between the two parties cited above, these parties have violated the Reading Agreement which governs Reading Employees, and is in force until January 1978.
- (4) Under Title VII of the Civil Rights Act of 1964 Discrimination is prohibited by Employers Labor Unions and Employment Agencies whose Activities effect 'Interstate Commerce.'

OPINION OF BOARD: We are met at the outset with a jurisdictional argument advanced by the Carrier which is premised upon the Petitioner's alleged failure to handle this dispute "in the usual manner" on the property in accordance with Section 3 First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board.

The Carrier also argues in defense of the claim, that petitioner is actually asserting a grievance it has with the Clerks Organization, whereas this Board's jurisdiction is confined to deciding disputes "between an employe . . . and a Carrier," and the National Railroad Adjustment Board has no jurisdiction to consider such matters.

In reviewing the record, we are constrained to agree with Carrier on both points. We have held repeatedly that claims not handled pursuant to the Railway Labor Act and this Board's Circular No. 1 cannot be entertained or allowed. Moreover, a claim alleging collusion between Carrier and the Organization or a violation of Title VII of the Civil Rights Act of 1964, is directed to the wrong forum. For the reasons listed above, 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;

That this Division of the Adjustment Board has 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 28th day of February 1979.

