

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22438
Docket Number MS-22724

PARTIES TO DISPUTE: (Roland Fortin, Danny Conroy, Douglas Conroy,
(Ralph Corey, and Murray Mockler
(
(Canadian Pacific Limited
((In States of Maine and Vermont)

STATEMENT OF CLAIM: "When we were hired we were told by the Roadmaster that we would be rated as sectionmen. After our 65 days we were all told that we were rated as sectionmen. We were paid sectionmen rates all summer. On the 24th of Oct we were all told that our rates were taken away and our seniority would not count on the Maintenance of Way. According to the contract this cant (sic) be done. We ask that we be put on the seniority list as sectionmen. We were promised that we would be, so the company should honor its promis (sic) to do so. Also the company owes (sic) some of us back pay. We want what thay (sic) owe (sic) us."

OPINION OF BOARD: Petitioners allege when employed in May 1978 they would be rated and paid as sectionmen after their 65th day of employment. In October 1978, Petitioners were told that the sectionmen's rate of pay and seniority would not count as they were considered as extra gang laborers. Petitioners seek restoration of sectionmen's seniority and any compensation due them.

The difficulty with Petitioners' claim is that it has not been submitted to "usual manner of handling" on the property; instead, the claim was submitted directly to this 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 hearing thereon has been held and concluded;

That the Carrier and Employes involved in this dispute are respectively Carrier and Employes 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; and

That the claim is barred.

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 15th day of June 1979.

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