

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22482  
Docket Number MS-22636

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Gary E. Clair  
(  
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Violation of Employee Position Rights."

OPINION OF BOARD: The record shows that claimant's services were terminated under the provisions of a Union Shop Agreement (Appendix No. 3 of the applicable Agreement, incorporated in the Agreement by Rule 42.)

The Union Shop Agreement provides a precise method for the final and complete settlement of any and all claims or grievances arising thereunder. (Sections 5(b) and (c) of the Agreement.) The claimant herein did not appeal the decision of the Carrier in the manner outlined in Section 5(c), which provides for the selection or appointment of a neutral arbitrator whose decision "shall be final and binding upon the parties."

This Board must respect the remedial machinery established by the parties for the settlement of such disputes. As stated in Second Division Award 1887:

"Assertion of jurisdiction under the circumstances here present would amount to abrogating a binding provision of the agreement. This we have no power to do."

The claim must properly be dismissed on this basis alone.

The record also shows that the claim Petitioner is asserting before the Board was not handled on the property in accordance with the provisions of Section 3, First (i) of Railway Labor Act, Circular No. 1 of the National Railroad Adjustment Board, and the provisions of the applicable agreement on the property. This also constitutes proper basis for dismissal of the claim.

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 be dismissed.

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 24th day of August 1979.