

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22603
Docket Number MS-22968

PARTIES TO DISPUTE: (William F. Tackett
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(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM: "Claimant claims loss of wages resulting from lack of employment and loss of seniority with his former employer, which was caused by the Chessie System's hiring the claimant after he took a medical examination and then terminating the claimant as a result of the medical examination, all without just cause."

OPINION OF BOARD: Claimant William F. Tackett applied for position of trackman on April 26, 1978. Claimant was given a physical examination April 28, 1978 and was employed as trackman by Carrier May 4, 1978. Carrier's Regional Medical Examiner, upon review of Claimant's physical examination papers, disqualified him from further service. Claimant was notified June 12, 1978 that his employment application was rejected and he was removed from service all within the sixty (60) day probationary period allowed Carrier by Rule 2(a) of the collective bargaining Agreement.

Claimant seeks monetary recovery for loss of wages resulting from loss of employment and loss of seniority of his former employer, which was caused by the Chessie System's hiring him after he took a medical examination and then terminating his employment when the Regional Medical Examiner rejected his application.

Carrier states that Claimant was removed from service within the sixty (60) day probationary period allowed by Rule 2(a) for acceptance or rejection of employment application and that the instant claim was not presented for "on property" handling in the usual manner prescribed by the Railway Labor Act.

Our review of the entire record clearly shows that the claim which Petitioner is attempting to assert before this Board was not handled on the property of the Carrier in accordance with requirements of the applicable collective bargaining Agreement Rule 21(h) as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. Therefore, the claim as described above is barred from consideration by this Division and is accordingly 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 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 30th day of October, 1979.