

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23336
Docket Number MS-23907

PARTIES TO DISPUTE: (Roy E. Simsheuser
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(Missouri Pacific Railroad 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 10-16-80 covering an unadjusted dispute between me and the Missouri Pacific Railroad involving the question:

I was not allowed to return to work until I lose some weight. The railroad doctor released me, but St. Louis sent notice that I had to lose the weight before returning to work. I feel this is discriminatory since there are other men as big or bigger than I working on the railroad."

OPINION OF BOARD: We have carefully reviewed the entire record in this case and have considered all of the arguments advanced by the Parties involved in this dispute.

From the record in this case, it is apparent that no claim or grievance was presented in writing on the property to any Carrier Officer as required by Rule 12, Section 2 of the Agreement.

Accordingly, since no claim or grievance was properly initiated on the property, the jurisdictional requirement of handling claims "in the usual manner" as mandated by Section 3, First (i) of the Railway Labor Act, as amended, has not been met. We are left with no alternative but to dismiss the claim for lack of jurisdiction.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That hearing was held and concluded;

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. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 19th day of June 1981.