

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23454
Docket Number MS-23745

A. Robert Lowry, Referee

PARTIES TO DISPUTE: (Robert O. Crawford
(
(Norfolk and Western Railway Company

STATEMENT OF CLAIM: "I was dismissed from the Norfolk & Western Railway Company on Oct. 12, 1978 by Superintendent Bill Bridger. He cites rule 17 (g) of the April 1, 1973 Master Agreement that I engaged in outside employment during the nation wide rail strike which began July 10, 1978.

I have been advised by fellow employees that I was dismissed in violation of the April 1, 1973 Master Agreement which states an employee will not be disciplined or dismissed without investigation and hearing and will have the right to be present.

I desire to return to the service of the Norfolk & Western Railway Company with all seniority rights and privileges unimpaired.

Request backpay check for wages due me from the termination of the old contract and until beginning of the new contract."

OPINION OF BOARD: Claimant R. O. Crawford was dismissed from the service of the Carrier on October 12, 1978, for engaging in outside employment while allegedly off account sickness in violation of Rule 17 (g) of the applicable agreement.

Claimant served notice of intent to file his dispute with this Board on July 6, 1980. A review of the record reveals that Claimant never presented a grievance to Carrier under the applicable agreement, nor did he attempt to handle the dispute on the property. The claim, therefore, was not handled as required by Section 3, First (1) of the Railway Labor Act and Circular No. 1 of this Board. See Awards 19785 and 20165, Referee Sickles, Award 16786, Referee Zumas and Award 18322, Referee Dorsey.

The claim is barred from consideration by this Board and 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 is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A. W. Paulsen

Executive Secretary

Dated at Chicago, Illinois, this 8th day of December 1981.

