

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award Number 24147
Docket Number MS-24540

PARTIES TO DISPUTE: (Richard B. Smith
(
(Illinois Central Gulf Railroad

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 this the Twenty-Sixth Day of January, in the year of Nineteen-Hundred and Eighty-Two, covering an unadjusted dispute between Richard B. Smith and the Illinois Central Gulf Railroad involving the question: That said party (Mr. Smith) was dismissed from his position as Trackman of Maintenance of Way Employees illegally by the Illinois Central Gulf Railroad and Co-Respondents S. B. Powell-Division Engineer, J. H. Harrington, and Supervisor H. E. Payne, etc."

OPINION OF BOARD: The initial question before this Board is whether Claimant's petition to the Third Division was properly filed in accordance with provisions of the controlling agreement and the applicable Rules of this Board. From the record submitted to this Division, it is apparent that Claimant was clearly obligated to file the instant claim with this Board within nine (9) months of date of declination by Carrier's highest officer authorized to handle claims. Carrier, in its submission, points out that Claimant never instituted his complaint within the time limits and steps of appeal as set forth in the parties agreement. The record is barren of any such handling in the usual manner as prescribed in the Railway Labor Act. The Rules of this Board are uniformly applicable to the national railroad industry and implicitly indexed to the time limit provision of the collective bargaining agreements regulating the labor relation functions in the industry. We are compelled by the force and consistency of our decisional law to sustain Carrier's determination of Claimant's failure to comply with timely handling of this claim. The present claim is jurisdictionally defective.

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

That hearing as requested was held and concluded;

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That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 31, 1934;

That this Division of the Adjustment Board had 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: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch, Administrative Assistant

Dated at Chicago, Illinois, this 27th day of January 1983.

