

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24190
Docket Number MS-24756

PARTIES TO DISPUTE: (Frank Lemon
(Consolidated Rail Corporation

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 June 13, 1982, covering an unadjusted dispute between me and the Conrail Consolidated Rail Corporation involving the question:

Payment of wages lost during an unjust dismissal of Frank Lemon from Conrail Consolidated Rail Corporation from February 3, 1982 to March 18, 1982."

OPINION OF BOARD: Claimant entered the service of the Carrier on November 29, 1966 and at the time of the incident involved in this dispute he was employed as clerk headquartered at 14th St. Coach Yard, Chicago, Illinois. The Claimant was charged, granted a hearing and found guilty of absenting himself from duty between 1:30 A.M. and 4:20 A.M., January 7, 1982, while assigned to a 3rd trick chauffeur's position and was disciplined by dismissal. Following appeal to the Regional Manager, Labor Relations, the discipline was reduced to time held out of service. The record establishes that Claimant next appealed his claim to the Third Division.

Our review of the record establishes that Claimant's petition is procedurally defective. The claim has not been handled on the property "in the usual manner" as required by Section 3, First (1) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. Those provisions require that the claim be handled in the "usual manner on the property up to and including the chief operating officer of the carrier ..." The record discloses that Petitioner failed to progress thereof, came directly to the Third Division, consequently, the claim must be dismissed.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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: Acting Executive Secretary
National Railroad Adjustment Board

By *Rosemarie Brasch*
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 28th day of February 1983.

