

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24600
Docket Number MS-24857

Robert Silagi, Referee

(Joseph Leggin

PARTIES TO DISPUTE:

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(National Railroad Passenger Corporation

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of our intentions to file an ex parte submission on November 4, 1982, covering an adjustment dispute between us and Amtrak involving the question of C-2 Benefits or equal compensation for older stewards who are deprived of job protection, which younger stewards with as little as 5 years seniority are entitled to under C-2.

Job protection plans should not be limited to any one group doing the same job. This C-2 plan eliminates many stewards with many more years of service and seniority and discriminates against the dining car steward with age and seniority.

Besides myself, other complaintants are: George Kolomitz (sic), Norbert Mikrut, John T. Jazwenski, Thomas M. Levolsi and Thomas D. Ryan."

OPINION OF BOARD: The claim is for benefits under Appendix C-2 to the National Railroad Passenger Corporation (AMTRAK) agreement with various employe organizations, among them the United Transportation Union which represents Dining Car Stewards.

Despite the third paragraph of the Statement of Claim, petitioner made it clear at the referee hearing that he does not represent the 5 men named in said paragraph and that he is the sole claimant in this proceeding.

Appendix C-2 is designed to provide benefits to employees who suffered a loss of compensation or other employment conditions because of the discontinuance of inter-city rail passenger service. The Carrier raised a number of substantive objections none of which need be considered in view of the fatal procedural flaw in this claim. Article IX(a) of Appendix C-2 provides, in pertinent part, that:

"... any dispute or controversy aris[ing] with respect to the interpretation or application of any provision of this Appendix ... may be referred by either party to the dispute to a Public Law Board for consideration and determination".

It is therefore apparent that this dispute is brought in the wrong forum and that this Board has no jurisdiction (see Third Division Award 23850 - LaRocco, April 28, 1982). This Board lacking jurisdiction must dismiss the claim.

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

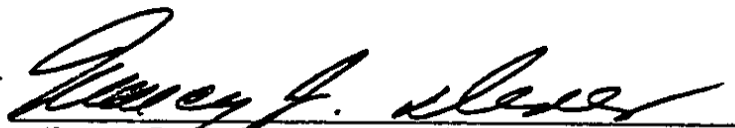
That the claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 15th of December 1983.

