

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25097
Docket Number MS-24993

Edward L. Suntrup, Referee

PARTIES TO DISPUTE: (Ann M. Noble
(
(Grand Trunk Western 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 by January 21, 1983, covering an unadjusted dispute between me and the Grand Trunk Western Railroad Company involving the following questions:

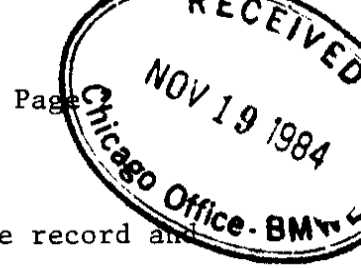
1. Whether an employee working part-time at a permanent position that has been bulletined under Rule 10 of the Operating Agreement between the carrier and BRAC is entitled to seniority beginning the date employment commenced pursuant to Rule 3 of the Operating Agreement.

2. If the employee is entitled to seniority pursuant to Rule 3 of the Operating Agreement, is this employee entitled to be compensated by the carrier for lost income occasioned by the wrongful layoff of the employee by the carrier."

OPINION OF BOARD: The Petitioner, A. M. Noble, was hired on March 21, 1975 to do temporary work as an extra switchboard operator. This was a non-bulletined position. The record shows that the first bulletined position awarded the Claimant was that of mail clerk in the Carrier's Office Management Services Department on January 7, 1980. In accordance with Rule 3 (a) and Rule 12 (b) of the working Agreement between the Carrier and the Organization (BRAC), revised June 18, 1973, the Carrier established January 7, 1980, as the Petitioner's seniority date.

On February 4, 1982 and thereafter the Petitioner filed a grievance with the Carrier in order to "establish (her) proper seniority date" as March 21, 1975. This grievance was denied on both procedural and substantive grounds by the Carrier. On procedural grounds the grievance was denied because it had not been filed in accordance with the provisions of working Agreement Rule 73. On substantive grounds the Carrier stated that January 7, 1980 was the applicable seniority date in accordance with the provisions of Rule 3 (a) and 12 (b) of the working Agreement cited above. After these denials of the grievance the Petitioner then served notice on December 21, 1982 of intention to file an ex parte submission with the Third Division of the National Railroad Adjustment Board for judgment and relief.

A review of the instant record shows a number of procedural errors on the part of the Petitioner. Both Section 2, Second and Section 3, First (i) of the Railway Labor Act, as well as Circular No. 1 issued by the National Railroad Adjustment Board on October 10, 1934 clearly set out the procedural route to be followed by this Board, in its appellate role under the Act. Since there was neither a conference on the dispute at bar held on property, nor an appeal made to the Carrier's highest officer designated to hear such appeals prior to filing with this Board, this case is not properly before the Board. It must, therefore, 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 handwritten signature in cursive script, appearing to read 'Nancy J. Dever', written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of October, 1984.