

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25557
Docket Number MS-25350

Frances Penn, Referee

(E. F. Gibson
PARTIES TO DISPUTE: (
(The Chesapeake and Ohio Railway Company

STATEMENT OF CLAIM:

"Carrier violated the rules of the Clerks' Agreement and the Washington Agreement when my position of Record Clerk, Pos. No. A-26 was abolished May 1, 1981 and work was transferred to J. A. Binford's office in Richmond, Va. and Supt. of Transportation in Baltimore, Md. This work was not transferred to Car Accounting Office in Baltimore, as if that would make a difference under the contract.

I contend that I should have been given the right to transfer with my work or be given severance pay."

OPINION OF BOARD: The dispute in this matter involves the Ex Parte Submission filed by the Claimant, E. F. Gibson, in which she alleges that the August 1981 consolidation of Carrier's operations at Huntington, West Virginia, and Baltimore, Maryland, violated the Clerks' Agreement and the Washington Agreement. The Claimant contends that she should have been allowed by the Carrier to follow her work or she should be given severance pay. The Carrier contends that the handling of this claim was procedurally defective and that the Board lacks jurisdiction to overturn the Agreement and interpretations thereof which have been negotiated and agreed upon by the parties.

The Board finds that the Claimant failed to process her claim in accordance with the rules which prescribe the procedure for handling grievances. Agreement Rule 27 1/2 requires in pertinent part:

"(a) All claims or grievances must be presented in writing by or on behalf of the employee involved, to the officer of the Carrier authorized to receive same, within 60 days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the Carrier shall, within 60 days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances.

"(b) If a disallowed claim or grievance is to be appealed, such appeal must be in writing and must be taken within 60 days from receipt of notice of disallowance, and the representative of the Carrier shall be notified in writing within that time of the rejection of his decision. Failing to comply with this provision, the matter shall be considered closed, but this shall not be considered as a precedent or waiver of the contentions of the employees as to other similar claims or grievances."

In this instance, protest was filed by the Claimant on June 6, 1981, directly to BRAC President Kroll. There was no handling with the Carrier as required by Rule 27 1/2 prior to appeal to this Board. (See Third Division Awards No. 23581 and No. 19571 and Second Division Award No. 8642). Furthermore, there was no conference on the property between the parties to this dispute as required by Sections 152 Second and 153 First (i) of the Railway Labor Act. (See Third Division Award No. 11896 and Second Division Awards No. 6540 and No. 7155). In accordance with the applicable Rules and the Awards cited, the Board finds that this claim is procedurally defective. Thus the claim is precluded from consideration and must 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

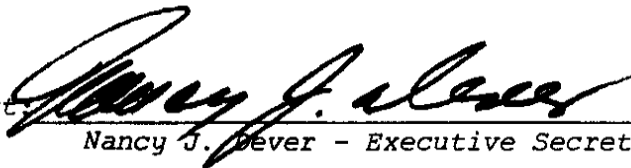
That the claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 26th day of July 1985.

