

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25651
Docket Number MS-26024

John W. Gaines, Referee

(Elijah Nicholson

PARTIES TO DISPUTE: (

(New Jersey Transit Rail Operations

STATEMENT OF CLAIM:

"New Jersey Transit Rail Operation did fail by procedure to uphold the collective bargaining agreement, Title V and Title I of the Railroad (sic) Labor Act. I would like my restoration of 17 years of service and compensation of monies for time lost by the carriers failure to comply."

OPINION OF BOARD: This Division, with Referee present, convened at the appointed time of day, 11:30 A.M., for consideration and discussion of this Docket MS-26024 on the date scheduled. At 11:45 we adjourned the session for an hour, to accommodate to the request of Petitioner to appear in person before the Board. Carrier had indicated it would not be present.

We reconvened at 12:45 P.M. and, Petitioner failing to appear, we took up our discussion of the case and the procedural aspect raised following termination of Petitioner's employment.

In that connection, Carrier had held a hearing on August 18, 1983, pursuant to terms of the Union Shop Agreement, to determine if Petitioner was approximately \$3,000.00 in arrears in his Union dues and therefore in violation of the Union Membership requirements of the Agreement.

Carrier next notified Petitioner of its decision, by Certified Mail dated October 25, 1983, that, as a fact developed at the investigative hearing, he had failed to comply with the Membership requirements and so his seniority would be terminated in two weeks, provided however, that Petitioner did not meantime file an appeal directly to Carrier's highest Officer within ten days of the decision. The Agreement set the ten day limit as a requirement specifically provided for in Section 5(b) thereof.

The claim was not thereafter properly handled on the property of Carrier because Petitioner did not appeal within ten days as required. Therefore, when Carrier later terminated Petitioner, it was required to do so, and validly did so, strictly in accordance with termination procedure likewise provided for in Section 5(b) of the Agreement.

Earlier, Petitioner had been cited for non-compliance by the Organization, Carrier was notified, and Carrier followed up as above conforming to the prescribed rules. Petitioner's duration of employment with Carrier was properly terminated under the Union Shop Agreement and hence 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

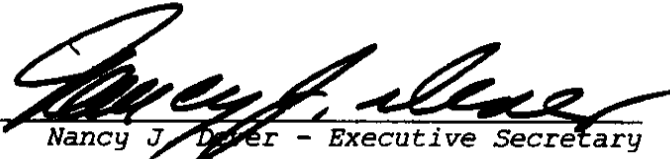
That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 30th day of September, 1985

