

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26242
Docket Number MS-26577

James R. Johnson, Referee

PARTIES TO DISPUTE: (Grant L. MacDonald
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(National Railroad Passenger Corporation

STATEMENT OF CLAIM:

"I. The referenced employee has been improperly and/or illegally discharged or otherwise refused continued employment by Corporation; and

II. Is therefore entitled to an ordered remedy including but not limited to reinstatement with full back pay and benefits."

OPINION OF BOARD: Claimant was employed by the Carrier as an Assistant Signalman. He was furloughed in January, 1983, and was sent a letter dated March 29, 1983, which recalled him to service. The letter instructed him to report for work on April 4, 1983, and reminded him that Rule 33 of the Schedule Agreement required him to return to service within 14 consecutive calendar days after being notified, or he would forfeit all seniority.

A dispute arose as to whether Claimant complied with the requirements of Rule 33, and the Carrier notified him on April 18, 1983, that he had forfeited all seniority and his employment was terminated.

The Carrier raises several procedural arguments, and asserts that the Board must address them before it may turn to the merits of the dispute. Specifically, the Carrier argues that the Claim was not appealed to its Regional Manager of Labor Relations (the second step appeal), nor to its Director of Labor Relations (the third step appeal). Further, it was not discussed in conference on the property, as required by contract and the Railway Labor Act.

Moreover, the Carrier points out that the appeal to the National Railroad Adjustment Board was made more than two years after the action which gave rise to the Claim, and the Petitioner's appeal is in conflict with the Rules of the Third Division, the contract between the parties, and the Railway Labor Act.

Prior Awards of this Division and other Boards have consistently held that our jurisdiction is limited to cases which have been handled on the property in conformity with the contract and the Railway Labor Act.

It is neither appropriate, nor within our jurisdiction, to adjudicate a Claim which the parties never even discussed. The very purpose of the Railway Labor Act procedures is to enable the parties to resolve disputes themselves, and the National Railroad Adjustment Board is established to resolve those "minor" disputes which they cannot resolve. In the absence of an attempt to resolve or otherwise adjust the matter by the parties, this Board lacks jurisdiction in the matter.

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

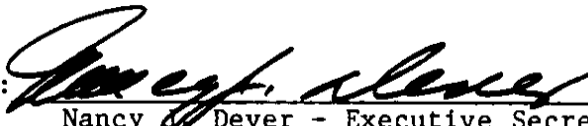
That the Claim is barred.

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 27th day of February 1987.