

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26685
Docket Number MS-26473

Irwin M. Lieberman, Referee

PARTIES TO DISPUTE: (Craig Homan
(
(Elgin, Joliet and Eastern Railroad Company

STATEMENT OF CLAIM: "I have to paint unassisted, and have incurred several injuries as a result of doing so. I feel my civil rights have been violated, under Group 1 rules 2B, 3B, and 4C, Group 5 Rule 39, and rule 61, Stabilization of Employment of February 7, 1965, in agreement between the Elgin Joliet and Eastern Railway Company and the Brotherhood of Maintenance of Way Employees.

I also feel that my working alone is a violation of O.S.H.A. rules."

OPINION OF BOARD: The record of this dispute indicates that no claim or grievance was filed by Claimant in accordance with the terms of the Agreement between the Carrier and the Brotherhood of Maintenance of Way Employees.

Section 3, First (i) of the Railway Labor Act, as amended, provides that all disputes between an employe and a Carrier:

"...be handled in the usual manner up to and including the chief operating officer of the Carrier designated to handle such disputes...."

Furthermore, the National Railroad Adjustment Board in its Circular No. 1 states:

"No petition shall be considered by any division of the Board unless the subject matter has been handled in accordance with the provisions of the Railway Labor Act, approved June 21, 1934."

Since Claimant herein has not conformed to the procedure set forth in the Agreement, the dispute has not been handled "...in the usual manner" and we have no choice but to dismiss the Claim, without consideration of the merits (see Third Division Awards 22482 and 24759 among many others).

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

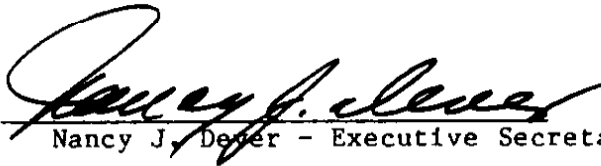
That the Claim is barred.

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 23rd day of November 1987.