

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28872
Docket No. MS-28960
91-3-89-3-359

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

(Normand Petit
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

"(1) The dismissal of Railroader N. Petit for allegedly being absent without authority from June 29 through July 7, 1988 was without just and sufficient cause, arbitrary, capricious, on the basis of unproven charges and in violation of the Agreement.

(2) The Carrier violated the Agreement when it refused to afford the Claimant his right of appeal as set forth in Section VI. 'Discipline', following a hearing which was held on July 19, 1988.

(3) As a consequence of the violations referred to in either Part (1) and/or Part (2) above, Mr. N. Petit shall be returned to his position with all seniority and benefits unimpaired and he shall be paid for all wage loss suffered."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

As Third Party in Interest, the United Transportation Union was advised of the pendency of this dispute and filed a Submission with the Division.

This is one more in a series of cases involving the same Carrier and its employees each of which has contained substantially the same jurisdictional and/or procedural allegations, contentions and arguments. See Third Division Awards 28726, 28727, 28767, 28768, 28791 and 28816. This case, however, contains one primary issue which was not present in any of the preceding cases, namely, there is absolutely no identification in this case file to indicate the craft or class of employees of which Claimant was a member. In each of the previous cases there was a clear or easily discernible identification of the craft or class of employees to which each of the Claimants was assigned at the time of the events which precipitated the action which was under review. Here, however, neither the Claimant nor the Carrier gives any clue whatsoever to the craft or class to which the Claimant was assigned at the time of the events which precipitated his termination from the service of the Carrier.

The jurisdiction of this Board is clearly defined by both Section 3, First (h) of the Railway Labor Act, as amended, and by Circular No. 1 of the National Railroad Adjustment Board. The Third Division of the Board is empowered "To have jurisdiction over disputes involving station, tower, and telegraph employees, train dispatchers, maintenance-of-way men, clerical employees, freight handlers, express, station, and store employees, signal men, sleeping-car conductors, sleeping-car porters, and maids and dining-car employees." From the record in this case it cannot be determined that Claimant was associated with any of the above listed classifications.

While we continue to agree with and support the clear thinking logic as expressed in another case on this Carrier decided by First Division Award 24019, to wit:

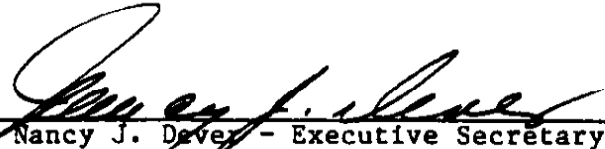
"Regardless of what Carrier elects to call its employees, the fact remains that Claimant was working as an Engineer and, consequently, the claim was appropriately advanced to the First Division."

we must, in this case, conclude that the Third Division of the Board does not have jurisdiction over the particular claim of this particular employee whose craft and class is unspecified. We therefore, dismiss this case for lack of jurisdiction without addressing the merits thereof.

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 30th day of July 1991.