

NATIONAL RAILROAD ADJUSTMENT BOARD  
FIRST DIVISION

With Referee John M. Malkin

Award 22 101

Docket 42 692

PARTIES ( Leo Derkacz  
TO (   
DISPUTE (   
( Norfolk and Western Railway Company

STATEMENT OF CLAIM: "LEO DERKACZ was allegedly absent from duty without permission of his superior on April 19, 1971, in apparent violation of General Rule 404:

'Employees must not absent themselves from duty, or change off with another for a trip or part of a trip, or day without obtaining permission from their superior.'

FINDINGS: The First Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds that the parties herein are carrier and employe within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was held.

No conference relating to the dispute was held prior to the submission of the claim to this Division.

Review of the exchange of correspondence relating to a conference shows that a request for a conference was made by Petitioner's attorney on October 20, 1971 and the Carrier's Director of Labor Relations by letter of October 22, 1971 offered to meet at his office in Cleveland, Ohio. By letter of October 26, 1971, Petitioner's attorney asked that the conference be held in Chicago since the Carrier had an office there and since Claimant was unemployed and without funds to arrange for the attorney's travel to Cleveland and stated, "If you cannot arrange a conference here then I assume that we have exhausted our efforts at settling the matter." By letter of October 29, 1971, Carrier's Director of Labor Relations repeated his offer to meet in Cleveland on the date suggested by him in his previous letter or on some other mutually agreeable date, saying he did not anticipate being in Chicago in the foreseeable future and had no representative in Chicago. The record disclosed no further attempt to arrange for a conference.

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The Carrier's uncontroverted statements in its submission were that Cleveland was on the Carrier's line, was headquarters for the Carrier's Lake Region and previously was headquarters for the former carrier involved in the case; that, from its office in Cleveland, the Carrier handled time claims and grievance matters, as well as various other phases of labor relations work, for some 8,000 operating and non-operating craft employees; and that conferences with representatives of labor organizations representing employees, including the labor organization representing employees of the Claimant's craft, were regularly held at Cleveland.

The holding of a conference is a condition precedent to the exercise of jurisdiction by this Division under Section 2, Second, and Section 3, First (i), of the Railway Labor Act and Circular No. 1 issued by the Board entitled "Organization and Certain Rules of Procedure" which provides that 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 Act.

Under Section 2, Sixth, of the Act, the place specified for conference "shall be situated upon the line of the carrier involved or as otherwise mutually agreed upon."

The Carrier was ready to meet at its headquarters in Cleveland, the customary location for such conferences, and nothing in the facts and circumstances of this case as contained in the record obviates the requirement for a conference prior to submission to this Division.

Accordingly, it is the finding that the claim has not been handled in accordance with the requirements of the Act and this Division is without authority to assume jurisdiction in this case. The claim must be dismissed.

AWARD: Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
BY ORDER OF FIRST DIVISION

DATED AT CHICAGO, ILLINOIS  
THIS 21st DAY OF December 1972.

ATTEST: *E. A. Miller*  
Executive Secretary