

The First Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

(Lawrence E. Altoff

PARTIES TO DISPUTE: (

(Maryland Midland Railway, Inc.

STATEMENT OF CLAIM:

"Allow Employee Laurence E. Altoff, all lost earnings, including 'Car Pay, 37 hours - 40 minutes Compensatory Time, Vacation etc. Health and Welfare Benefits, discipline removed from service record, and restoration to service with seniority unimpaired for having been unjustly dismissed, on approximately 19 August 1987.'"

FINDINGS:

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

The carrier or carriers and the employe or employes 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.

The record shows the Claimant was employed on April 6, 1986, in engine and train service and was dismissed on August 19, 1987, on the grounds his job performance was unsatisfactory.

The Claim before the Board is for reinstatement and pay for time lost. While there is considerable argument, on both sides, concerning the merits of the Carrier's decision to terminate Claimant, the Board finds that it must dismiss the Claim on jurisdictional grounds.

It is well settled that the jurisdiction of the Board is restricted by statute to disputes involving "the interpretation or application of labor agreements." The record before the Board, however, reveals there is no Collective Bargaining Agreement in effect on this Carrier and, therefore, there are no Agreement rules to interpret or apply.

The Board has no alternative but to dismiss the Claim. For similar holdings, see Fourth Division Awards 4410, 4478, 4508, 4510 and 4548.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 13th day of January 1989.