

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21627
Docket Number MS-21887

George S. Roukis, Referee

(Philip J. Balutis

PARTIES TO DISPUTE: (

(The Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an **ex parte** submission on August 12, 1976 covering an unadjusted dispute between me and the Baltimore and Ohio RR involving the question:

Having worked on the section crew and being furloughed I was once again returned to work. Discovering that I was wearing a hearing aid the Supervisor said I was unable to work.

I have been employed by the **B&O** RR for over thirty (30) years. I am a qualified Carmen but due to slack in work I was forced to go to the section for **employment**. I feel I have been unjustly treated and I have a legitimate claim. I do not have a set of rules governing the section crews work but I am quite certain if I am unfit for work due to hearing difficulty I feel I should be compensated for same.

I brought this matter before the Railroad Retirement Board and they recommended that I continue my claim.

OPINION OF BOARD: From the record of this case it is apparent that the subject which petitioner has asserted before this Board was not presented or processed either by him or on his behalf by any representative on the property.

Section 3 First **(i)** of the Railway Labor Act and Circular No. 1 of the National Railroad **Adjustment** Board demand that disputes be considered in conference and if possible, decided on the property before they may be submitted to this Board for resolution. Inasmuch as petitioner failed to progress the instant claim in accordance with this prescribed procedure, we are barred from consideration of it. The claim must be and is hereby dismissed.

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 was not progressed on the property as required by the Railway Labor Act.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **Third** Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1977.

