

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

(James G. Woodiel
PARTIES TO DISPUTE: (
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

"Whether claimant is entitled to severance pay or allowance and purchase of home due to misapplication of the applicable provisions of the Washington Job Protection Agreement, etc."

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 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.

Claimant has a seniority date of May 22, 1976, on the Albuquerque Division Station Department seniority roster, and at the time of the instant dispute was regularly assigned to Car Clerk Position No. 6062 at Gallup, New Mexico.

As a result of the establishment of an inter-divisional run-thru assignment, all jobs at Seligman, Arizona, including Claimant's, were abolished February 5, 1985. It was through the exercise of his seniority that Claimant came to be assigned the Car Clerk position at Gallup, New Mexico. Claimant now seeks reimbursement for losses suffered and expenses incurred in the sale of his home. According to the Carrier, however, Claimant's residence was and still is at Kingman, Arizona, and, therefore, Carrier asserts that he has not incurred any moving expenses for moving his residence.

On February 9, 1985, Claimant filed a Claim alleging misapplication of the Washington Job Protection Agreement, Section 9, Section 11(A).1. Another Claim was filed by Claimant on May 27, 1985, alleging that Carrier violated Rule 17-C(2), Rules 40, 44, 53, 57, and Appendices 8 and 9.

On May 30, 1985, Carrier notified the Claimant that his initial Claim dated February 9, 1985, was not properly progressed in accordance with Rule 47-A(1). Also on that same date, Carrier denied Claimant's May 27, 1985, Claim in its entirety. From the record, it appears that Claimant did not further pursue either Claim on the property and did not engage in a conference as required by Section 3 First (i) of the Railway Labor Act, but instead filed his Claim directly with the Board.

Based on the Board's review of this case, we concur with Carrier's position that the Claim is procedurally defective and must be dismissed. Board precedent is clear that compliance with the procedural requirements of the Railway Labor Act for consideration of all Claims in conference on the property is a jurisdictional prerequisite for Board consideration of a Claim. See, Third Division Awards 21627 ("Inasmuch as petitioner failed to progress the . . . Claim in accordance with [the] procedure [requiring consideration of a Claim in conference], we are barred from consideration of it"); 21440 (" . . . a failure to have a conference is fatal to Petitioner's Claim . . . failure to hold a conference on the property is a serious procedural flaw on which basis the Claim must be dismissed [citing numerous prior awards]."). Indeed in a similar dispute before the Board regarding severance pay, Claimant's claim was dismissed in Third Division Award 25761. Therein, the Board stated:

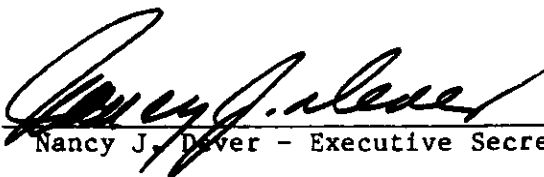
"This Board finds the reasoning and findings set forth in Award No. 25712 are applicable to the facts of this dispute. For these reasons, we affirm that this claim was not handled in the usual manner as provided in the controlling Agreement, and, accordingly, did not comply with Section 3, First (i) of the Railway Labor Act or Circular No. 1 of the National Railroad Adjustment Board."

In the instant case, since no conference was ever held on the property, the Board is without authority to take jurisdiction of the Claim. Therefore, the Claim must be dismissed.

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 22nd day of September 1988.