

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

PARTIES TO DISPUTE: (Laurance A. McCabe
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(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Unfair Labor Practices against me by Conrail Part II."

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 waived right of appearance at hearing thereon.

The instant dispute involves a number of allegations related to the mishandling of personnel files and Carrier's labor practices. The correspondence on property between the Claimant and Carrier references no Agreement provision violated. A careful review indicates that Claimant alleges that Carrier's errors and failures with regard to his personnel file have resulted in Claimant's non consideration for promotion.


This issue is well beyond the Board's jurisdiction. We have no authority to consider any issues which do not derive from "disputes... growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions..." No Agreement provision was alleged violated. The grievance is not properly before us as encompassed by Section 3, First (i) of the Railway Labor Act. As such, the Claimant's allegations may not be examined or considered by this Board.

We must also point out that an almost identical dispute involving the same parties was dismissed in Fourth Division Award 4513. Stare decisis should apply.

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 29th day of March 1989.