

(Frank R. Prola  
PARTIES TO DISPUTE: (  
(National Railroad Passenger Corporation

STATEMENT OF CLAIM:

"Grievance-National Railroad Passenger Corporation File: 281-393-18, relative to a seniority issue, submitted January 7, 1991, but never received an answer in writing from the company."

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 Claimant is employed as a Ticket Clerk at Carrier's Johnstown, Pennsylvania Station and is covered by the Corporate Clerical Agreement.

The instant Claim first came to the Carrier's attention when it received the Executive Secretary's letter dated January 23, 1992, to which was attached a copy of the Claimant's January 20, 1992 notice of intention to file an Ex Parte Submission.

In response thereto, by letter dated April 7, 1992, the District Supervisor of the Passenger Services Department (Claimant's immediate supervisor) advised Carrier's Manager Labor Relations that at no time had he ever received a protest regarding Claimant's position on the seniority roster. Under date of April 9, 1992, the Division Manager Labor Relations confirmed that a review of his records failed to produce any letters or documents indicating that Claimant filed a Claim at any time protesting his seniority on the Eastern Region District V seniority roster.

There is no evidence on the record before us that the Claimant presented a Claim to the Carrier under the applicable Agreement. Nor is there

any evidence on the record indicating he attempted to handle the alleged dispute on the property in accordance with the Agreement. Further, there is no indication in the record that a conference was ever requested or held between the parties. As a result of the Claimant's failure to comply with the Agreement, the Claim has not been processed as required by the Railway Labor Act and Circular No. 1 of this Board.

Section 153, First (i) of the Railway Labor Act requires that disputes "...shall be handled in the usual manner up to and including the chief operating officer of the Carrier designated to handle such disputes...." Circular No. 1 of this Board provides:

"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 Railway Labor Act, approved June 21, 1934."

This Board is compelled to dismiss the Claim for failure of the Petitioner to comply with the jurisdictional mandates of the Railway Labor Act, as amended. As was stated in Third Division Award 24759:

"The requirements of collective bargaining contract and the law that a claim be processed '...in the usual manner...' on 'the property' are much more than mere procedural niceties. If a grievance is not properly filed and processed, the underlying issue is never subjected to necessary adversarial testing. Moreover, of critical significance is the fact that no record is generated to be used as a basis for this Board's essentially 'appellate' deliberative and decision-making processes."

The allegations made by the Claimant thus have no standing for review by this Board.

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 24th day of July 1992.