

Award No. 1688

Docket No. 1671

NATIONAL RAILROAD ADJUSTMENT BOARD

FOURTH DIVISION

The Fourth Division consisted of the regular members and in addition Referee Harold M. Weston when award was rendered.

PARTIES TO DISPUTE:

TOLEDO, LORAIN AND FAIRPORT COMPANY

**LOCAL UNION No. 106,
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
AFL-CIO**

STATEMENT OF CLAIM: This is a dispute between the Toledo, Lorain & Fairport Co., and its employes at Lorain Dock growing out of the interpretation and application of the existing agreement between the parties affecting working conditions of the employes. Such violation effected by the Union is stated briefly for identification purposes as follows:

1. On Saturday, July 8, 1961 the Union through its president, Mr. Lee C. Ferguson, issued an ultimatum that unless the Company notify his crew of our intentions to double over that crew on Sunday, July 9, 1961, before they left the dock on Saturday this crew would not work past 3:00 P. M. on Sunday.

2. Said action by the Union is contrary to past practice; is in violation of procedures established by the Railway Labor Act for the handling of disputes; and is in violation of the existing agreement.

OPINION OF BOARD: In this case the Carrier is the petitioning party and Organization the respondent.

The submissions fail to include a Statement of Claim that specifies the precise relief requested and the rules that allegedly have been violated. A Statement of Claim setting forth these points is prescribed by this Board's Rules of Procedures and sample statements and submissions are readily available for examination. They also do not show that the dispute was explored on the property in the manner contemplated by the Railway Labor Act and applicable Agreement. On the contrary it appears that this dispute was submitted to the Board without being "handled between the Management and the Committee representing the employes" as prescribed by Article XVI of the Agreement.

We consider these shortcomings sufficiently serious to require the dismissal of the petition. Our concern in this case is not with formalities but rather with the need for orderly process, an adequate written record and the assurance that the parties have had full opportunity to present their

respective views and explore all the issues on the property. In the present posture of the matter, we are not satisfied that we are in a position to declare principles that will have an important bearing on labor-management relations between the parties. We are not certain that we are not being asked to write a new rule, one regarding an alleged violation by the Local President. See Award 900.

The Organization has requested, possibly by way of counterclaim, that Carrier be instructed to post publicly a withdrawal of its reprimand of the Local President. This request also has not been presented in accordance with the procedures of this Board. It is for Carrier to determine whether or not disciplinary action is warranted and, if so, in what degree. If the Organization wants this Board to pass upon the propriety of an employe's censure or other discipline by the Carrier, its proper course is to exhaust the grievance machinery provided for in the Agreement and thereafter to file its claim with the Board in the prescribed form.

The claim will be dismissed.

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

The carrier and the employes involved in this dispute are respectively carrier and employe 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.

The parties to said dispute were given due notice of hearing thereon.

The claim does not comply with the procedural requirements of this Division.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of FOURTH DIVISION

ATTEST: Patrick V. Pope
Secretary

Dated at Chicago, Illinois, this 20th day of September 1962.