

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISIONAward Number 4410
Referee Lamont E. Stallworth Docket Number 4146PARTIES Ernest Everett
TODISPUTE: Pennsylvania Truck Lines
Consolidated Rail CorporationSTATEMENT OF CLAIM: Mr. Everett in accordance with 45 U.S.C. Sect. 162 (1),
disputes the validity of his termination from employment
with Pennsylvania Truck Lines. Mr. Everett claims wages and
benefits from date of termination to the present, offsetting
for wages earned from alternative sources from date of
termination to present, reinstatement or loss of future wages
and fringe benefits, reasonable attorney fees.OPINION OF BOARD: The Claimant was discharged from employment on September 14, 1981
and has appealed that action to the Board.

The Pennsylvania Truck Lines asserts that although it is now owned by Conrail, it is a motor truck carrier regulated by the Interstate Commerce Commission and subject to the NLRB. Although the Claimant asserts the Carrier is a subsidiary of Conrail, it is the Board's opinion that it lacks jurisdiction. Claimant worked as a non-union employe without any contract applicable to his employment; therefore the Board has no contractual basis upon which to rule.

It should be noted that the parties were advised of their right to appear before the Board on June 19, 1985. Both parties elected not to appear.

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 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.

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

The parties to said dispute waived right of appearance at hearing thereon.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:



Nancy J. Dever
Executive Secretary

Dated at Chicago, Illinois, this 20th day of February 1986.