

NATIONAL RAILROAD ADJUSTMENT BOARD
FOURTH DIVISION

Referee Herbert L. Marx, Jr.

Award Number 4548
Docket Number 4568

PARTIES John P. Leary, Jr.
TO
DISPUTE: Consolidated Rail Corporation

STATEMENT Unjustified abolishment of my non-agreement Pricing Analyst
OF CLAIM: position in the Marketing & Sales Department on March 2, 1982.

OPINION On February 5, 1982, Claimant was notified by letter that his
OF BOARD: non-agreement position as Pricing Analyst in the Carrier's
 Marketing and Sales Department was being abolished with the close
of business on March 2, 1982. The Claimant contends that the job abolishment
was not justified and seeks reinstatement to the position as well as backpay
and other benefits which allegedly were lost to the Claimant as a result of
the job abolishment.

As noted above, at the time of Claimant's job abolishment, he was employed in an exempt non-agreement position. The Claimant did not occupy that position as a matter of any contractual right arising from a Collective Bargaining Agreement, nor has the Board been requested to interpret the provisions of any such Agreement. This Board does not have jurisdiction under the Railway Labor Act to entertain claims by employes not covered by a Collective Bargaining Agreement. As has been stated in numerous previous Awards, this Board does not sit as a court of equity. The function of this Board is limited to deciding disputes in accordance with the provisions of a controlling Labor Agreement as applied to the facts and evidence in the record.

The Carrier raises additional procedural and substantive defenses to the Claim which this Board need not reach in view of the finding that the Board is without jurisdiction to hear the dispute.

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 dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Fourth Division

ATTEST:


Nancy J. Dever
Executive Secretary

Dated at Chicago, Illinois, this 21st day of May 1987.