

The First Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (David Evitt
(
(Amador Central Railroad Company

STATEMENT OF CLAIM:

"Claimant herein David Evitt was wrongfully discharged by the Amador Central Railroad Company on or about January 26, 1989. The claimant, Mr. David Evitt, is not represented by any collective bargaining union and there is not a collective bargaining agreement covering this situation. He therefore files his claim to redress his wrongful discharge with the National Railroad Adjustment Board pursuant to the provisions of 45 U.S.C. Section 151 et seq. Under the provisions of the Railway Labor Act set forth above, Mr. Evitt's claim will culminate in a final and binding arbitration before the National Railroad Adjustment Board, 45 U.S.C. Section 153."

FINDINGS:

The First 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 jurisdiction of this Division is limited by Section 153, First (1) of the Railway Labor Act, as amended, to disputes or grievances growing out of the interpretation or application of Agreements between Carriers and their employees. There is no contractual Agreement between the parties in the instant dispute, therefore there are no Agreement rules to interpret or apply. Consequently, there is no basis for proceeding before this Board, and we have no alternative but to dismiss the Claim. See First Division Awards 23909, 21870, and Fourth Division Awards 4507, 4513, 4548.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of First Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 12th day of September 1991.