



NAVIGATING THE RAILS: THE CLAIMS PROCESS UNDER SECTION 3 OF THE RAILWAY LABOR ACT

RLA SECTION 3 AND ITS SIGNIFICANCE

- Section 3 is the mandatory and exclusive process for resolving “minor” disputes (*i.e.*, those growing out of grievances or the interpretation/application of agreements concerning rates of pay, rules, or working conditions).
- Awards are final and binding, and enforceable / subject to challenge in U.S. District Court. Suit must be filed within two (2) years after the date of the subject award.
- Statutory grounds for judicial reversal of an award are: (1) failure of the division/board to comply with the requirements of the RLA; (2) failure of the order to conform, or confine itself, to matters within the scope of the division’s/board’s jurisdiction; and (3) fraud or corruption by a member of the division/board making the order.

RLA SECTION 3 VENUES

- National Railroad Adjustment Board (NRAB) grouped by craft (equal number of representatives, w/Referees assigned as tie-breakers):
 - First Division – engineers, firemen, hostlers, and outside hostler helpers, conductors, trainmen, and yard service employees;
 - Second Division – machinists, boilermakers, blacksmiths, sheet-metal workers, electrical workers, carmen, the helpers and apprentices of all the foregoing, coach cleaners, power-house employees, and railroad-shop laborers;
 - Third Division – station, tower, and telegraph employees, train dispatchers, maintenance-of-way men, clerical employees, freight handlers, express, station, and store employees, signal men, sleeping-car conductors, sleeping-car porters, and maids and dining-car employees; and
 - Fourth Division – employees of carriers directly or indirectly engaged in transportation of passengers or property by water, and all other employees of carriers over which jurisdiction is not given to the first, second, and third divisions.
- Tri-Partite Boards created by agreement, and comprised of a Chairman and Neutral Member, a Carrier Member and an Organization Member:
 - Public Law Boards (PLBs); and
 - Special Boards of Adjustment (SBAs).

THE CLAIMS PROCESS: INITIATION TO RESOLUTION

Claims/Grievances

- Claim/grievance filed by employee or representative
- Denied by the Carrier
- CBA governs subsequent steps (*i.e.*, the “usual manner” for handling claims/grievances)
- Conference with Carrier’s HDO
- Section 3 arbitration

Discipline

- Process initiated by the Carrier
- Formal investigation/hearing
- Discipline imposed and appealed
- CBA governs subsequent steps (*i.e.*, the “usual manner” for handling disciplinary matters)
- Conference with Carrier’s HDO
- Section 3 arbitration (dismissed employee is permitted to attend)

LEGAL CONSIDERATIONS / REQUIREMENTS

- Comply with all CBA time limits, documenting any extensions.
- Identify all facts and delineate all arguments you intend to rely upon in arbitration. Failure to do so during on-property handling may cause the arbitrator to conclude that unstated facts/arguments have been forfeited, precluding their consideration.
- Challenge the other party's facts and rebut the other party's arguments to the extent necessary to make your case. Failure to do so during on-property handling may cause the arbitrator to conclude that unrebutted facts/arguments have been admitted/conceded.
- Although the HDO conference is a statutory requirement, lack of evidence of conferencing does not deprive the division/board of jurisdiction. *Union Pacific R. Co. v. Locomotive Engineers*, 558 U.S. 67 (2009).

NRAB PROCESS

- Documents governing case handling before the NRAB (available at https://nmb.gov/NMB_Application/index.php/nrab/):
 - Circular No. 1, issued October 10, 1934 and titled *Organization and Certain Rules of Procedure*;
 - NRAB Uniform Rules of Procedure (eff. October 1, 2023); and
 - NRAB Instructions Sheet (eff. October 1, 2023).
- Petitioning Party must file Notice of Intent with the division (copying the other Party), including a brief description of the dispute, the particular question on which an Award is desired, and the remedy sought.
- Parties have 75 days from NRAB acknowledgement and assignment of a Case Number ... this time limit will not be extended.

PLB / SBA PROCESS

- For Boards that already have been established by Agreement, additional claims and grievances may be docketed with the NMB in the manner prescribed by said Agreement.
- The process for creating a new PLB or SBA is governed by RLA Section 3, Second (45 U.S.C. § 153, Second), which is available at <https://www.law.cornell.edu/uscode/text/45/chapter-8>. The Agreement, along with an Attachment listing the case(s) initially to be docketed, is to be filed with the NMB.
- The Board's processes will be governed by the Agreement under which it has been established.