

Award No. 737
Docket No. MC-783-16
2-CRI&P-I-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**CHESTER WILLCOXEN, ET AL
vs.
THE CHICAGO, ROCK ISLAND AND PACIFIC RAILWAY
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES:

1. The men claim the right to recover wages from July 2, 1922, to date.
2. The right to recover back wages at the same rate of pay.
3. The right to receive interest at 4% on all back pay, compounded annually.
4. The right of having the seniority rule applied when it is to the advantage of the men.

FACTS AND POSITION OF PARTIES: The petitioners state they are entitled to restoration of certain seniority rights, recovery of wages and interest thereon from July, 1922, accruing to them from the time they left the service of the railroad company (July, 1922).

The carrier states there was no dispute pending and unadjusted in behalf of such employes at the time the amended Railway Labor Act was approved and the Adjustment Board was created.

OPINION OF THE DIVISION: Section 3 (i) of the Railway Labor Act as amended June 21, 1934, provides:

"The disputes between an employe or group of employes and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes."

This Board does not have jurisdiction in cases that were not pending and unadjusted on the date of approval of this Act.

The record in this case shows that the controversy was not made a dispute and there was no asserting of the claim until sometime in 1940.

This dispute was not pending and unadjusted within the meaning of the amended Railway Labor Act on the date of approval of the Act (June 21, 1934); therefore, this Board is without jurisdiction to pass upon the petitioner's claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 2nd day of April, 1942.