

Award No. 2425

Docket No. 2259

2-PRR-MA-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Machinists)**

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Carrier unjustly denied Machinist R. S. Ramazzotti the right to work on July 20, 1954.
2. That accordingly the Carrier be ordered to compensate this employe for eight (8) hours at the pro rata rate for time lost on July 20, 1954.

EMPLOYEES' STATEMENT OF FACTS: R. S. Ramazzotti, hereinafter referred to as the claimant, is employed by the Pennsylvania Railroad Company, hereinafter referred to as the carrier, as a machinist in the Juniata Locomotive Shop at Altoona, Pennsylvania.

Claimant was on vacation from July 6, 1954, to July 19, 1954, inclusive. During the time claimant was on vacation senior Machinist L. R. Sackett at 8:32 A. M. on July 15, 1954, displaced the claimant by exercising his seniority on claimant's Job No. 328-A, second trick in E & M machine department.

The claimant was scheduled to return to service following his vacation on July 20, 1954 at 3:30 P. M. At or about 9:15 A. M. on July 20, 1954, the claimant was notified by telephone by the carrier that he had been displaced by a senior employe and that he had no job, further that he should come into the carrier's office and exercise his seniority. At or about 11:40 A. M. following the telephone call, the claimant exercised his seniority on Job No. 118-A, held by a junior employe, G. F. Miller, on the second shift in the diesel erecting shop.

The claimant was not permitted to assume the duties of Job No. 118-A at 3:30 P. M. on July 20, 1954 even though he had notified the carrier approximately four (4) hours in advance of the starting time of the shift of his desire to exercise his seniority on Job No. 118-A. As a result of the carrier's action in denying the claimant the right to work on July 20, 1954, he lost a day's pay.

the advantage of the practice when it prevented Sackett from immediately displacing him, but objects to its application when it inconvenienced him.

In summary, the carrier has shown that no rule of the applicable agreement supports the claim of the employes in this dispute; that in accordance with the practice followed on the property, carrier's action in not permitting claimant to physically displace a junior employe in the exercise of seniority on July 20, 1954, was entirely proper; and that the claim should be denied.

III. Under The Railway Labor Act, The National Railroad Adjustment Board, Second Division, Is Required To Give Effect To The Said Agreement And To Decide The Present Dispute In Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Second Division, is required by the Railway Labor Act to give effect to the said agreement, which constitutes the applicable agreement between this carrier and the Railway Employees' Department, A. F. of L., and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i) confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim of the organization in this case would require the Board to disregard the agreement between the parties, hereinbefore referred to; and impose upon the carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to the applicable agreement. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The carrier has established that the applicable agreement has not been violated in the instant case and that the claimant is not entitled to the compensation which he claims.

Therefore, the carrier respectfully submits that your Honorable Board should deny the claim of the organization in this matter.

FINDINGS: The Second 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 employe 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.

At the referee hearing the carrier conceded that this claim should be sustained.

AWARD

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION**

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of March, 1957.