

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

RAILWAY EMPLOYEES' DEPARTMENT, A. F. OF L. (MACHINISTS)
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES.—That Machinist Paul R. Burris be reinstated to his former position as machinist at Osage, with seniority rights unimpaired and paid for all time lost.

POSITION OF EMPLOYEES.—That investigation of the charge that Machinist Burris is at fault for the finding of penalty defect on locomotive No. 723 by Federal Inspector, was not thorough and fair.

It is contended that due to circumstances surrounding the work of employes at small outlying points, Machinist Burris was to some extent handicapped; he was not allowed to move locomotive and, therefore, could not make repairs without such assistance. He was many times required to perform work other than that of locomotive repair work.

There was some misunderstanding about the work to be performed by Machinist Burris on the particular day on which the defect was found on the locomotive and for which Burris was dismissed from the service.

POSITION OF CARRIER.—At Osage, Oklahoma, on November 22, 1934, shortly after 10:30 A. M., Machinist Paul R. Burris discovered gib of left crosshead, engine No. 723, needed rebabbitting. About 2:15 P. M., same date Federal Inspector found this condition, Machinist Burris having failed to make repairs and had failed to tie up the engine for the repairs.

Machinist Burris acknowledged that he discovered this defect and stated that he had intended to make the repairs later, but did not do so before the defect was discovered by Federal Inspector. It is contended that Machinist Burris had been told by Foreman Jones to give locomotive repairs preference over tank cars or any other work, and that in this instance Burris was negligent in not recording the defect on the prescribed form and for not making the usual arrangements for having the defect corrected.

FINDINGS.—The Second Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds:

The carrier and the employe 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, and the hearing was held June 24, 1935.

Machinist Burris had been employed by the Missouri-Kansas-Texas Railroad Company for approximately twenty years, and for seven years prior to his dismissal had been employed at Osage, Oklahoma, as machinist and inspector.

Consideration should be given the years of service rendered by Machinist Burris, also to the fact that no testimony was introduced to show that his previous record had been unsatisfactory; and further, it is found that there were some extenuating circumstances surrounding the incident for which he was dismissed.

AWARD

Paul R. Burris shall be reinstated with seniority rights unimpaired, but claim for time lost is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 30th day of August, 1935.