

NATIONAL RAILROAD ADJUSTMENT BOARD

Second Division

PARTIES TO DISPUTE:

INTERNATIONAL ASSOCIATION OF MACHINISTS

WM. J. DOUGHERTY, MACHINIST

RAILWAY EXPRESS AGENCY

DISPUTE: CLAIM OF EMPLOYEES.—That Mr. William J. Dougherty, mechanic, employed by the Railway Express Agency at Philadelphia, Pennsylvania, should have his name reinstated on the seniority roster and should be paid for such time as was worked by a new employee.

POSITION OF EMPLOYEES.—Rule No. 20 of the agreement (Exhibit 3) provides as follows (in part):

“In the restoration of forces, senior laid-off men will be given preference, if available, within a reasonable time, and shall be returned to their former position; local committee will be furnished list of men to be restored to service; in reducing force the ratio of apprentices will be maintained.”

Mr. Dougherty has never refused a call and was available at the time this position was open.

It will be noted from the attached (Exhibit No. 4) that the company takes the position that when an employee is not called back to service within a reasonable time that he has no further claim to a standing on the seniority list. In other words, their position is that since Mr. Dougherty has not been called back since 1932, he loses all his former rights and standing.

Our position is that the company had no right to remove a furloughed employee's name from the seniority roster and that furloughed employee Dougherty's name should be restored to said roster, and that he should be paid for such time as was worked by the new employee.

POSITION OF CARRIER.—First, that the Second Division of the Adjustment Board does not have jurisdiction in this case.

Second, in March, 1935, a position was created to which Dougherty applied and claimed that he should have been called back to service, but since he had been out of service for over seven years, it did not seem to us that this, by any stretch of imagination, was “a reasonable time” within the meaning of Rule 20.

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

The carrier and the employee involved in this dispute are respectively carrier and employee 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, and oral hearing was held January 14, 1936.

William J. Dougherty was employed April 4, 1923, furloughed in reduction in force in 1928, restored to service for a period in 1932, and was again furloughed.

The employer did not comply with third paragraph of Rule 20 of the agreement in effect when increasing force in 1935.

AWARD

Seniority date of William J. Dougherty shall be as of April 4, 1923, and he shall be paid for all time lost due to a junior employee working, less the amount Dougherty did earn on the days he was entitled to work.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 22d day of January, 1936.