

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)
MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES.—Claim of Boilermaker F. A. Adams for compensation equal to 35 days or 280 hours as a boilermaker, rate 81¢ per hour, a total amount of \$226.80, less other earnings of \$20.25, leaving a total claim of \$206.55.

EMPLOYES' STATEMENT OF FACTS.—Mr. F. A. Adams was, effective December 12, 1933, discharged; he was reinstated, seniority unimpaired, February 15, 1934.

POSITION OF EMPLOYES.—The committee takes the position that Mr. Adams was discharged due to his affiliation with the I. B. B. I. S. B. & H. A. (boilermakers' international union) and not for cause as claimed by management, i. e., defective work performed on flue sheet, engine 1216. We are offering, to offset the claim of the management, statements and letters (Exhibits A, B, C, D, E, F, G, and H) wherein proof is made a record that the job on engine 1216 was ruined before Mr. Adams was assigned to the job, and that he had purposely been assigned to this job for the purpose of claiming he had performed the defective work on engine 1216 flue sheet; we further, as shown in Exhibits A and B, offer proof that Mr. Adams was constantly under a strain of being watched and checked on his job for causes which he could be discharged for; men were actually placed in and around the jobs that Mr. Adams was working on, to watch him, and he was constantly being threatened by the local supervisors.

Mr. Adams in his statement, Exhibit C, frankly states the activities of the local officers and also his own activities before and up to the time of his discharge prove without any doubt that Mr. Adams was a "marked man" and "on the spot", and was being watched at all times for an excuse to discharge him for his activities in helping organize the shops at Sedalia into standard labor organizations. Mr. Adams was very active and a leader in the organizing of the Sedalia shops, and for this reason we claim he was discharged.

Mr. Adams was reinstated February 15, 1934, before representation was secured by the international unions on the Missouri Pacific property and settlement was made through company union representatives and without any machinery for further appeal over company decisions; and also the reinstatement of Mr. Adams was secured only and after chief attorney had held conferences with general manager and president of the railroad, complaining to them against discrimination account employees joining standard organizations.

We are, therefore, in compliance with Rule 32 (e) of agreement in effect as of 1929, and up to and including agreement of July 1, 1934:

"Rule 32 (e). If it is found that an employe has been unjustly suspended or dismissed from the service such employe shall be reinstated with his seniority unimpaired and compensated for the wage loss, if any, resulting from said suspension or dismissal."

claiming compensation in the amount aforementioned.

CARRIER'S STATEMENT OF FACTS.—F. A. Adams employed as boilermaker in shops at Sedalia, Mo. Following investigation afforded him (accompanied by his chosen representative) for unsatisfactory work as a boilermaker on engine 1216, December 11, 1933, he was removed from service, effective December 12, 1933. Mr. Adams' case was handled by the boilermakers' organization, the general chairman appealing from the decision of the shop superintendent to the mechanical superintendent, thence to the chief

on February 15, 1934, and the result of this conference, which was held prior to Mr. Adams' return to service at 12:40 P. M. on that date, is set forth in affidavit of shop superintendent, dated Sedalia, Mo., August 21, 1936, and supporting affidavits of general foremen and chief clerk to shop superintendent, marked carrier's Exhibits Nos. D-1, 2, and 3.

It is noted that the employees claim an alleged monetary loss of \$206.55, whereas our records indicate that during the period of Mr. Adams' absence he actually lost but \$183.87, based upon the shop working days at Sedalia during period December 12, 1933, to February 15, 1934.

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

The carrier or carriers and the employee or employees 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.

There was voluminous evidence submitted in this case. The file is a substantial one filled with affidavits and counter affidavits, and sharp conflict of facts between the parties, upon which it will serve no good purpose to comment.

The employee involved in this dispute was one of a group taken out of service for alleged cause and later reinstated.

Rule 32 reads:

"(a) No employee shall be disciplined without a fair hearing by a designated officer of the railroad.

"(b) Suspension in proper cases pending a hearing, which shall be prompt, shall not be deemed a violation of this rule.

"(c) At a reasonable time prior to the hearing, such employee will be apprised of the precise charge against him.

"(d) The employee shall have reasonable opportunity to secure the presence of necessary witnesses and shall have the right to be there represented by counsel of his choosing who must be a member of the Missouri Pacific Mechanical Department Association.

"(e) If it is found that an employee has been unjustly suspended or dismissed from the service, such employee shall be reinstated with his seniority rights unimpaired, and compensated for the wage loss, if any, resulting from said suspension or dismissal."

The employee representative requested reopening of the case, claiming that all of the facts were not developed in the investigation. The record in the case substantiates the claim that all the facts were not disclosed during the investigation.

The Division, after giving consideration to all of the evidence submitted by both parties, finds that F. A. Adams was unjustly dismissed.

AWARD

F. A. Adams shall be compensated for wage loss due to his dismissal.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 3rd day of December, 1936.