

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

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

DISPUTE: CLAIM OF EMPLOYEES.—Claim of Machinist Russell Johnson for compensation equal to 36 days, hourly rate of pay, 81¢, amount involved, \$209.88, other earnings during that period, \$35.40, net loss, \$174.48, compensation claimed, \$174.48, due to being discharged December 15, 1933.

EMPLOYEES' STATEMENT OF FACTS.—Mr. Johnson was discharged effective December 15, 1933, and was reinstated February 19, 1934, seniority unimpaired.

POSITION OF EMPLOYEES.—That Mr. Johnson was discharged for his affiliation with I. A. of M. and not for cause as claimed by management, i. e., making loose fit on axle for engine 1707.

We claim that it is not now and never has been the practice of the Missouri Pacific Railroad Company to discharge employees who once in ten years made slight mistake as in the case of Mr. Johnson; the axle in question was not a loss as it could be used on another engine. Also the records indicate that Mr. Johnson's service record for ten years previous was clear. Exhibit A affidavit, indicates that the management had Mr. Johnson "on the spot" and only awaiting an opportunity to discharge him.

We contend that the discharge for cause as claimed by management was unjust and never before or since practiced in cases of even more serious nature than that with which Mr. Johnson was charged.

We also contend that there is nothing of record to indicate that Mr. Johnson was reinstated on a leniency basis or that he had waived claim for compensation for time lost.

We are, therefore, in compliance with Rule 32 (e) of agreement in effect as of 1929, and up to and including agreement of October 31, 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 rights 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.—Mr. Russell Johnson, employed as machinist, Sedalia, Mo., entered service September 5, 1923. On December 12, 1933, Mr. Johnson was assigned to perform machinist work in the making of a main axle for engine 1707, which job he reported completed at 3:30 P.M., December 13, 1933. Work performed by Mr. Johnson on this job was unsatisfactory and on December 15, 1933, he was afforded formal investigation accompanied by his representatives, the vice chairman, the secretary of the machinists' organization, and the chairman of the local shop crafts committee. Mr. Johnson was removed from service following the investigation. He was reinstated to service, effective February 19, 1934, upon leniency plea made by Mr. Johnson as well as by his representatives, chairman and secretary of the machinists' organization.

POSITION OF CARRIER.—Mr. Johnson was employed as machinist at Sedalia, Mo., September 5, 1923, and claims prior service as a mechanic on the Burlington, Frisco, Kansas City Southern, and Pere Marquette Railroads. On December 12, 1933, he was assigned by the shop foreman to make a new main axle for engine 1707. He completed the job at 3:30 P.M., December 13, 1933. Inspection by shop supervisor developed the work performed by Mr. Johnson was unsatisfactory, and he was suspended from service upon com-

pletion of the job. Formal investigation, as provided for in our wage agreement rules (carrier's Exhibit A), on December 15, 1933, was afforded Mr. Johnson, at which he was represented by representatives of his own choice, the vice chairman, the secretary of the machinists' organization, and the chairman of the Sedalia shop crafts committee.

Copy of investigation afforded Mr. Johnson, December 15, 1933, marked carrier's Exhibit B.

January 31, 1934, assistant general manager and chief mechanical officer were at Sedalia, Mo., and Mr. Johnson's case was brought to their attention by the shop committeemen, accompanied by the general chairman of the machinists' organization. These gentlemen requested that consideration be given to Mr. Johnson's return to service on a leniency basis in recognition of his past services in the Sedalia shops, and they were advised that appeals of this nature should be made through the local employing officer, the shop superintendent.

On February 16, 1934, the shop committeemen called upon the shop superintendent in Mr. Johnson's behalf and it was agreed to reinstate Mr. Johnson effective February 19, 1934, with the understanding that Johnson would, in future, perform his work in a workmanlike manner, and with the further understanding that his restoration to service would be with his former seniority rights but without compensation for any time that he may have lost between December 15, 1933, and February 19, 1934. See affidavit from shop superintendent supported by similar document from general foreman and chief clerk who were present at the conference the shop superintendent had with the shop committeemen and Johnson on February 16, 1934 (carrier's Exhibits C-1, and 2 and 3). Mr. Johnson resumed work February 19, 1934.

It is noted that the employes claim an alleged monetary loss of \$174.48, whereas our records indicate that during the period of Mr. Johnson's absence he actually lost but \$151.22, 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 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.

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

Russell Johnson entered the service of the carrier September 5, 1923, and was assigned to light work on which he specialized. On December 12, 1933, he was taken from his regular work and assigned to a machine on which he had no experience, resulting in his dismissal account of improper workmanship in machining a main axle.

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

AWARD

Russell Johnson 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.