

Award No. 386
Docket No. 413
2-NC&StL-SM-'39

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 83, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (SHEET METAL WORKERS)

THE NASHVILLE, CHATTANOOGA AND ST. LOUIS
RAILWAY

DISPUTE: CLAIM OF EMPLOYES: That J. C. Layton, pipefitter, be reinstated and his seniority rights restored as of November 27, 1923, and paid for all time lost on account of his name being removed from the seniority roster.

EMPLOYES' STATEMENT OF FACTS: J. C. Layton entered the service of the Nashville, Chattanooga and St. Louis Railway September, 1908, as a pipefitter apprentice. Upon completing his apprenticeship in 1912, he was retained in the service of the company continuously until July 1, 1922, when he was involved in the shopmen's strike.

He returned to the service of the Nashville, Chattanooga and St. Louis Railway about October 1, 1922, and continued in service until November, 1923, when he resigned. He re-entered the service that same month, November, 1923, where he continued until April, 1924, when he was furloughed from the service. He was recalled to service in the early part of 1925, and worked until November, 1931, when he was again furloughed. Since that time at different intervals he has worked as an extra man, working a few days at different times.

Layton continued from 1931 to 1936 working as an extra man under the provisions of Rule 8, and he only averaged approximately three (3) days per month. In December, 1936, he secured a job with the Illinois Central Railroad at Paducah, Ky., at that time he was still working as an extra man at Nashville on the Nashville, Chattanooga and St. Louis Railway. He went to his foreman, Mr. A. Kirchofer, and told him that he had secured employment as a pipefitter at Paducah, and requested a proper leave of absence. Mr. Kirchofer told him that they were glad to grant him a leave of absence, and that they would be glad to renew same in case business conditions had not picked up on the Nashville, Chattanooga and St. Louis Railway to where he could be reasonably employed at Nashville. A copy of this leave of absence is submitted and marked Exhibit A.

As was the custom under the rule, any person desiring a leave of absence would make application for it to his immediate foreman, and, if granted, the signature of the local chairman was secured on same by the foreman, which was done in this case, as Layton was granted the leave without question.

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.

Rule 15 as applied to the facts of record does not justify penalizing either party to this dispute. The claimant, in order to protect his seniority, complied with the provisions of master mechanic's letter of March 22, 1937, a copy of which is identified as Exhibit B—employees' submission.

AWARD

Claim sustained without pay for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 29th day of September, 1939.