

Award No. 486

Docket No. 512

2-Alton-FO-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**INTERNATIONAL BROTHERHOOD OF FIREMEN
& OILERS**

THE ALTON RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: The particular questions upon which an award is desired involve, first, employment relationship with the Alton Railroad Company of the petitioner, Mr. John E. Carbery, between October 19, 1933, the date on which his leave of absence was supposed to expire, and June 29, 1937, the date on which he formally resigned from active service; second, closing of his record without notice.

Claim is made that Mr. Carbery's service was not terminated until June 29, 1937, upon which date he formally resigned from active service, and request is made that his roster standing be corrected to show that he did have employment relationship up to and including June 29, 1937.

JOINT STATEMENT OF FACTS: Mr. John E. Carbery last entered the service of the Alton Railroad Company as fan engineer at Bloomington, Illinois, roundhouse on March 13, 1919, and continued to be employed in that capacity until July 19, 1933, when he was granted thirty days' leave of absence. On August 19, 1933, this leave of absence was extended to expire on October 19, 1933. Mr. Carbery failed to return to service after expiration of his leave of absence, and failed to request and secure a further extension through proper channels.

POSITION OF EMPLOYEES: Committee supports the claim in this case and offers for consideration the following facts relating to practices and procedure covering the leave of absence in question.

Petitioner filed an application for an annuity under the provisions of the Railroad Retirement Act on July 2, 1937, and claimed employment relation with the Alton Railroad Company. In his application for an annuity, the petitioner stated that he was born July 21, 1860, and claims a service record of approximately thirty-three years. The petitioner also stated that he last worked for the Alton Railroad Company as a fan engineer on June 30, 1933, and that he had been on an extended leave of absence since October 19, 1933.

Under date of May 14, 1938, petitioner was advised by Claims Service of Railroad Retirement Board that he was not eligible to receive an annuity because he did not have an employment relation as claimed. This decision was based upon information furnished by the Alton Railroad Company to the Board that the petitioner was not on August 29, 1935, on furlough, on leave of absence, or absent on account of sickness or disability and was not

affidavit, nor has he been employed by the carrier since that time. Mr. Bosshardt was furloughed as machinist on April 18, 1936. He did not retire, as he was not eligible for retirement. On the contrary, his record was closed June 16, 1937, in accordance with provisions of the shop crafts agreement, on account of failing to return to service when recalled for duty.

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 waived right of appearance at hearing thereon.

The record shows that Mr. Carbery did not obtain an extension of his leave of absence when same expired on October 19, 1933, in accordance with provisions of Rule 33 of the current agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 24th day of July, 1940.