

Award No. 683

Docket No. 613

2-ACL-CM-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That R. G. Anderson, car repairer, Waycross, Georgia, has been wrongfully held out of the service since August 21, 1940. Therefore, he is entitled to compensation covering all loss of time from August 21, 1940, until restored to service.

EMPLOYEES' STATEMENT OF FACTS: R. G. Anderson entered the service of the Atlantic Coast Line Railroad Company, February 13, 1914, at Waycross, Georgia, as carman.

At the time of his entry into the service of the railroad company, he had just completed an enlistment period in the United States Army. He was twenty-four years old and weighed in excess of 200 pounds.

In the fall of 1922, Anderson was promoted to gang foreman. Shortly thereafter, he was transferred to Jacksonville, Florida. He remained there for several years, being transferred back to Waycross in 1928 or 1929. He continued as gang foreman until the year 1931, when he was cut off in the general reduction of forces, both of mechanics and supervisors.

Anderson, having been promoted from mechanic to supervisor, was, according to terms of the agreement, eligible to return to work with his tools, and accordingly exercised his seniority to take a position as car repairer.

He continued in the service in this capacity until the fall of 1937, when he became ill, and upon the advice of his physician discontinued work and underwent an extended period of medical treatment.

Since Anderson became ill he has been carried on the seniority rosters with the notation "Sick" after his name.

After careful adherence to the prescribed medical treatment and diet, Anderson began to improve and eventually the condition from which he was suffering (sugar diabetes) was corrected. During the period of treatment, Anderson lost a great deal of weight, and even though his trouble was corrected it was not until August, 1939, that he felt able to perform any duties at all.

Sometime during the month of August, 1939, Anderson approached the superintendent motive power, Mr. James Grant, and sought to be restored to work as gang foreman. The superintendent declined this but reminded

some time, yet for something like three years he has shown no interest whatever in returning to his job. The lack of interest displayed in his job with the company and the fact that he refused to continue his death benefit insurance point to the possibility that he really had no intention of returning at all had his outside activities proved satisfactory. Apparently, they did not and he is now endeavoring to return to his former job. He got off from work, leaving the impression that he would be away about thirty days. This time lengthened into almost three years before he showed any inclination whatever to return.

Frankly, we do not believe that Mr. R. G. Anderson is capable of successfully carrying on the work of a car repairer, especially, with the work as being done now, inasmuch as it would be dangerous for him to be climbing around on a scaffold, and it would be physically impossible for him to get in narrow or close places. However, when Mr. R. G. Anderson's health has improved to the extent that he is in condition to perform the work safely and is improved by the medical authorities, he will be permitted to return to work.

Carrier contends that he is not entitled to compensation covering all loss of time since August 21, 1940, as he is off sick, and to further prove that Mr. R. G. Anderson is not interested in a job with the Atlantic Coast Line Railroad Company, he has not returned for any further examination to ascertain if his condition has improved.

Therefore, carrier contends there is no violation of the rules of the agreement and respectfully requests the National Railroad Adjustment Board to deny this claim.

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.

The evidence of record supports the conclusion that Car Repairer R. G. Anderson has been held out of service without adequate justification and in violation of the agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 15th day of January, 1942.