

Award No. 774

Docket No. MC-625-36

2-SP(PL)-I-'42

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

J. M. RICHARDSON, MACHINIST

vs.

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

DISPUTE: CLAIM OF EMPLOYEE: On March 27, 1924, I was laid off on account of reduction in force. At the time I was working as a machinist in the Los Angeles, California, general shops air brake department. I was never called back although I made inquiries regularly and was told each time just as soon as they started to place men back to work I would be called. At the same time they were calling men back younger in seniority than myself. I felt that under the agreement that was in force at that time between the Southern Pacific Company, Pacific Lines, and the employees of the motive power and car department I am entitled to my job back.

FACTS AND POSITION OF PARTIES: The petitioner states that he is entitled to restoration of certain seniority rights resulting from reduction in force in January, 1924.

Carrier states that no claim was received from petitioner until October 2, 1938, or approximately fifteen (15) years from date laid off in reduction of force; therefore, there was no claim pending and unadjusted on June 21, 1934.

OPINION OF THE DIVISION: Section 3 (i) of the Railway Labor Act as amended June 21, 1934, provides:

"The disputes between an employe or group of employes and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes."

This Board does not have jurisdiction in cases that were not pending and unadjusted on the date of approval of this Act.

The record in this case shows that the controversy was not made a dispute and there was no asserting of the claim until October 2, 1938.

This dispute was not pending and unadjusted within the meaning of the amended Railway Labor Act on the date of approval of the Act (June 21, 1934); therefore, this Board is without jurisdiction to pass upon the petitioner's claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 8th day of May, 1942.