

Award No. 794
Docket No. MC-678-46
2-B&M-I-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

WILLIAM T. ESTABROOK, ET AL

vs.

BOSTON AND MAINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: The employes claim that they were unjustly and unlawfully dropped from service and their names unjustly and unlawfully stricken from the seniority roster, for alleged failure to comply with Rule 21 of the agreement concerning pay, rules, and working conditions effective on and after April 1, 1937. The employes desire an award on this question.

FACTS AND POSITION OF PARTIES: Petitioners are attempting to have their claim decided by the Second Division of the National Railroad Adjustment Board.

The carrier contends that the petitioners have not complied with the provisions of Rule 29 of the agreement effective April 1, 1937; therefore, the claim has not been handled on the property "in the usual manner" as provided for in the amended Railway Labor Act.

OPINION OF THE DIVISION: In order that this Board may assume jurisdiction of a dispute on petition, it must appear that the dispute has been handled in the usual manner in negotiations with the carrier as provided by the statute; and that it is only in case there has been a failure to reach an adjustment in the manner so provided that this Board will review such proceedings. In the instant case, there was no compliance with the statute on the part of petitioners. The usual manner of negotiating with the carrier was not complied with. There was no failure to reach an adjustment "in the usual manner." Petitioners, having failed to pursue the required method of presenting their grievances, which in this case was that provided by the agreement between the carrier and the employes, this Board is without jurisdiction to pass upon petitioners' claim. See Gooch vs. Ogden Union Railway & Depot Company Award No. 514.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 26th day of May, 1942.

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