

Award No. 1034

Docket No. 955

2-TC-CM-'44

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Herbert B. Rudolph when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 68, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

TENNESSEE CENTRAL RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the carrier unjustly dealt with Carman George Isham when his name was secretly and arbitrarily removed from the Carmen's seniority roster at Emory Gap, Tennessee.

2. That the carrier be ordered to restore the name of George Isham on the Emory Gap seniority roster as of April 17, 1918.

EMPLOYES' STATEMENT OF FACTS: The carrier employed George Isham at Emory Gap in 1904, and, between that time and 1918, he performed several classes of service, including carmen's work.

On April 17, 1918, George Isham, hereinafter referred to as the claimant, was regularly classified as a carman, paid the carmen's applicable rate, and as of that date was maintained on the carmen's seniority roster which was posted on the left hand side of the old office door until the new office was built in the spring of 1936.

The claimant remained in the service of the carrier continuously as a carman from April 17, 1918, to February 17, 1925, when he was laid off as the result of the effectuation of a reduction in expenses at Emory Gap. At no time since February 17, 1925, up to the present time, have the service needs of carmen warranted the carrier calling the claimant nor has he had any opportunity in accordance with his April 17, 1918, seniority rights to return to the carrier's service at Emory Gap, and where there have been no carmen hired since October 15, 1918.

Between the dates of February 17, 1925, and December 10, 1941, the claimant kept in close touch with returning to service opportunities. He frequently consulted Foreman Pyle (now deceased) and subsequently Foreman Berry at Emory Gap, relative to being restored to the service.

On December 10, 1941, the claimant again consulted Foreman Berry, and on this occasion he requested the privilege of inspection of the seniority roster, and thereupon he discovered that his name was not on the list. Foreman Berry could not give any reason to the claimant for his name not being on the seniority list, except that his predecessor sent all records to the Nashville office.

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 facts disclose that George Isham has not been employed by the carrier during the last seventeen years. Request is now made that the name of George Isham be restored to the seniority lists. The claim is apparently based upon the statement that the name of George Isham was "secretly and arbitrarily removed" from the lists. The record fails to support such statement. Rule 25 provides that seniority lists will be open to inspection. There is no showing that inspection of the lists had been denied to any one, or that the lists were kept secret or undisclosed. The lists were always open to Mr. Isham or any member of the committee. It is clear that Mr. Isham, during the seventeen-year period, never complied with that portion of Rule 21 which requires that men laid off will furnish their full addresses to the official in charge and local representative, and shall renew their addresses each sixty days.

Just how or why the name of George Isham was omitted from the seniority lists does not definitely appear, but it is clear that for a large number of years the name has not been carried, and during all of these years no protest has been made. We believe that Rule 25 wherein it provides that such lists shall be open to inspection, contemplates that it is the duty of the employes to make such inspection and if any error appears to have such error corrected within a reasonable time. Obviously, complaint was not here made within a reasonable time. During the years in which there was a failure to complain many changes occurred, records were lost and destroyed, deaths occurred, and because of these events no satisfactory conclusion can be reached in support of claimant's position.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of November, 1944.