

Award No. 1445
Docket No. 1334
2-SP(PL)-EW-'51

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Frank M. Swacker when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

DISPUTE: CLAIM OF EMPLOYEES: 1—That under the current agreement, Crane Operator Emma E. Harris has been unjustly deprived of her service rights on and since July 6, 1948.

2—That accordingly the carrier be ordered to restore this employe to all service rights with pay for all time lost retroactive to the aforesaid date.

EMPLOYEES' STATEMENT OF FACTS: Emma E. Harris, hereinafter referred to as the claimant, was employed by the carrier as a laborer at Bay Shore Shops, San Francisco, on January 8, 1943, but who shortly thereafter, or on March 25, 1943, was promoted to the position of operator of the Bay Shore machine shop electric crane, and thereon she remained continuously, with seniority as of said date, during the hours of 7:30 A. M. to 12 Noon, and from 12:30 P. M. to 4:00 P. M., until July 6, 1948.

The carrier made the elections to:

- a) Abolish the claimant's job on June 21, 1948;
- b) Rebulletin the claimant's job the next day, June 22, 1948;
- c) Disqualify the claimant as an applicant for her rebulletined job on June 22, 1948;
- d) Replace the claimant on the crane effective July 6, 1948, with another employe who held no rights whatever to the crane operators' seniority roster, and
- e) To lay the claimant off effective as of July 6, 1948,

and as the carrier's record will disclose, all of its officers, from the bottom to the top, have declined to adjust this dispute, beginning with the electrical foreman on September 21, the general foreman on September 24, the master mechanic on October 13 and the superintendent on November 2, 1948, including the superintendent of motive power ending December 7, 1948, and with the general superintendent of motive power beginning with December 17, 1948, and ending with May 15, 1949.

the Board to follow the logical and established principle set forth above and require that any and all earnings by the claimant during the period for which compensation is claimed be deducted.

CONCLUSION

Having conclusively established that the claim in this docket was not presented or progressed in accordance with controlling provisions of the current agreement, the carrier respectfully submits that it should be dismissed.

If, however, the Board elects not to dismiss same, the carrier then respectfully requests that the claim be denied on the showing it has made that the claim in its entirety is without merit.

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 claimant still does retain her service rights and seniority.

The claim as presented herein was not progressed in conformity with Rule 38. The appeal from the denial of the Superintendent's letter of November 5, 1948, to the Superintendent of Motive Power on December 3, 1948, was too late and the claim will, therefore, be denied.

AWARD

Claim disposed of as per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of March, 1951.