

Award No. 1840
Docket No. MC-1042-88
2-LV-I-'54

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

MIKE SOPRANO (Machinist)

LEHIGH VALLEY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEE: (1) Petitioner respectfully requests your Body to find that petitioner was unlawfully discharged from his employment by respondent company on the twenty-seventh day of November, 1943, copy of dismissal letter hereto attached and marked "Complainant's Exhibit A."

(2) That Complainant has been unlawfully denied employment by respondent railroad company since the twenty-eighth day of November, 1942.

(3) That complainant since discharge by respondent company on November 28, 1942, has made repeated requests for reinstatement to employment and has been unjustly refused by respondent company.

(4) That complainant be awarded his full wages from time of unjust discharge to date of award.

(5) That complainant be reinstated in the employ of company with full seniority rights and in position to which he is entitled by experience and seniority.

(6) That complainant is entitled to a machinist wage from the sixteenth day of October, 1932.

EMPLOYEES' STATEMENT OF FACTS: (1) Complainant began working for respondent in 1912 in Wheel shop of respondent company at shops in Sayre, Pennsylvania. No friction with company or difficulties occurred until 1938 at which time one Robert Holland was placed in charge of car shop while still supervisor of the wheel shop. Several jobs were offered complainant in car shop but were refused and complainant stayed in wheel shop, feeling he was most familiar with this type of work.

(2) That complainant worked and performed duties of machinist from on or about the first day of September, 1927, to the twenty-eighth day of November, 1942.

(3) That complainant from the first day of May, 1929, to October 16, 1932, was paid at the rate of sixty-six (66) cents per hour, being rate for machinist's promoted helper.

There has been at no time a dispute between this carrier and the representatives of the craft in which Soprano was working. This is a case where an individual became disgruntled because the rules of the agreement under which he was working were not made to fit his individual circumstances, but, instead, were made for the good and benefit of the entire craft. There has been no violation of the rules of the machinists' agreement involving the complaint registered in this case. Therefore, we maintain this case is not properly one which could be presented for consideration before your Board, and should be dismissed.

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.

The parties to said dispute were given due notice of hearing thereon.

The record before us does not disclose that petitioner's claim was handled in conformity with the procedural requirements of Rules 35 and 36 of the controlling agreement. Due to petitioner's failure to pursue the required method of presenting his grievance, this Division of the National Railroad Adjustment Board is without power to pass upon his claim. See Awards 463, 514, 590, 1136, 1275, 1445, 1510, 1680, 1718, 1720, 1721 and 1733 of this Division.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 17th day of September, 1954.