

Award No. 2132
Docket No. 2073-I
2-C&O-I-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

LEWIS A. GOAD AND ROY NAPIER (Machinists)

THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)

DISPUTE: CLAIM OF EMPLOYES: Whether Mr. Lewis A. Goad and Mr. Roy Napier each was wrongfully, unjustly, and discriminatorily demoted from Machinist to Machinist Helper on July 16, 1950, at Handley, West Virginia, by The Chesapeake and Ohio Railway Company, and whether since that date each has been wrongfully deprived of his classification as a Machinist and the seniority rights, wage and other benefits to which he was and is entitled as a Machinist.

EMPLOYEES' STATEMENT OF FACTS: LEWIS A. GOAD: Lewis A. Goad was employed by The Chesapeake & Ohio Railway Company, herein-after called the carrier, at Handley, West Virginia, on June 1, 1927, as a machinist helper. On April 1, 1943, he was promoted to a machinist in accordance with the upgrading agreement between the carrier and System Federation No. 41, dated June 2, 1942. On or about April 1, 1949, after termination of the upgrading agreement, Goad was reduced to a machinist helper. He secured an approved leave of absence from the carrier and, on December 1, 1949, was employed as a machinist by the New York Central Railroad, first at the Hobson Terminal and later was transferred to the Dickinson, W. Va., Terminal.

In March 1950, Goad learned that the carrier was in need of machinists at Handley. Goad thereupon asked the local chairman to speak to the General foreman about giving Goad a machinist's job. The local chairman then advised Goad that the general foreman had agreed to hire him as a machinist. Goad began to work as a machinist for the carrier on March 16, 1950, and resigned his machinist's job on the New York Central on March 26, 1950. This resignation took place after Goad and Napier received assurances from W. H. Gorman, general chairman of the International Association of Machinists Lodge 1072, that Goad's obtaining the machinist's job from the carrier was satisfactory with Gorman. Goad obtained a journeyman's machinist card in the IAM at the time he left to fill the machinist's job at the New York Central.

His work as a machinist with the New York Central Railroad was considered by said railroad to have been very satisfactory.

Rule 36 provides for appeal as provided in the Railway Labor Act.

Rules 37 and 38 are discipline rules. Goad and Napier were not disciplined and these rules are, therefore, not applicable.

The complaint of the employees is wholly unsupported by agreement rules or by past practice and should be denied in its entirety.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 record does not show that the claimants have employment rights other than as machinist helpers.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of June, 1956.