

Award No. 2419
Docket No. 2233
2-PRR-MA-'57

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Machinists)

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the Carrier unjustly denied Machinist Helper G. E. Baum the right to work on July 20, 1954.

2. That accordingly the Carrier be ordered to compensate this employee for eight (8) hours at the pro rata rate for time lost on July 20, 1954.

EMPLOYEES' STATEMENT OF FACTS: G. E. Baum, hereinafter referred to as the claimant, is employed by the Pennsylvania Railroad Company, hereinafter referred to as the carrier, as a machinist helper in the Juniata Locomotive Shop at Altoona, Pennsylvania.

Claimant was on vacation from July 6, 1954 to July 19, 1954, inclusive. During the time claimant was on vacation his Job No. 151-X was abolished, effective at 3:30 P. M. on July 15, 1954.

Claimant reported for service, following his vacation at 7:00 A. M. on July 20, 1954. The claimant was denied the right to exercise his seniority over a junior employee of his craft and class on July 20, 1954, and as a consequence thereof he was not permitted to work this day thereby losing a day's pay.

The claimant notified the carrier that he was exercising his seniority on Job No. 630, held by a junior employee, T. E. Stine, and was told to report for service on July 21, 1954, at 7:00 A. M. Upon reporting for work at 7:00 A. M. on July 21, 1954, Foreman N. C. Hanks advised the claimant that a senior employee had exercised his seniority on Job No. 630. Claimant was then permitted by the carrier to exercise his seniority to a position on the second shift and on which job he reported for work on July 21, 1954, at 3:00 P. M.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company, with the result that he has

to 3:30 P. M. with one-half hour meal period it is clear that had claimant been permitted to make an actual displacement at 9:00 A. M., he would only have worked a total of six (6) hours on July 20, 1954. Thus, at most, the claimant would only be entitled to compensation in the amount of six (6) hours at the applicable pro rata rate if your Honorable Board were to decide, contrary to the facts, that the applicable agreement was violated in the instant case.

III. Under The Railway Labor Act, The National Railroad Adjustment Board, Second Division, Is Required To Give Effect To The Said Agreement And To Decide The Present Dispute In Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Second Division, is required by the Railway Labor Act to give effect to the said agreement, which constitutes the applicable agreement between this carrier and the Railway Employees' Department, A. F. of L., and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i) confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions." The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim of the organization in this case would require the Board to disregard the agreement between the parties, hereinbefore referred to; and impose upon the carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to the applicable agreement. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The carrier has established that the applicable agreement has not been violated in the instant case and that the claimant is not entitled to the compensation which he claims.

Therefore, the carrier respectfully submits that your Honorable Board should deny the claim of the organization in this matter.

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.

Disposition of this claim is governed by our Award No. 2418 (Docket 2232).

AWARD

Claim denied.

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

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of March, 1957.