

Award No. 2420

Docket No. 2234

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 CO.

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Carrier unjustly denied Machinist Joseph Schmidbauer the right to work on July 20, 1954.
2. That accordingly the Carrier be ordered to compensate this employe for eight (8) hours at the pro rata rate for time lost on July 20, 1954.

EMPLOYEES' STATEMENT OF FACTS: Joseph Schmidbauer, hereinafter referred to as the claimant, is employed by the Pennsylvania Railroad Company, hereinafter referred to as the carrier, as a machinist in 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. 101-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. Claimant was denied the right to exercise his seniority over a junior employe 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.

Claimant was permitted by the carrier to exercise his seniority on job No. 249-X, held by a junior employe, R. L. Olson, taking over the job at 7:00 A. M. on July 21, 1954.

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 declined to adjust it, as per Works' Manager, C. I. Clagh's letter, dated December 29, 1954.

The agreement effective April 1, 1952, as it has been subsequently amended, is controlling.

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 No. 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.