

Award No. 3331
Docket No. 3272-I
2-IC-I-'59

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

DOROTHY J. TERRELL, OPAL BLANTON
AVERY L. RAGSDALE, SALLIE M. DAWSON

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

That under and by reason of the Statement of Facts herein, the Carrier, by disregarding the Petitioners' rights of seniority and by resorting to a subterfuge to prevent the continued employment of the Petitioners by reason of their sex, abolished the positions of all Firemen and Oilers in Classes B and C established by the Schedule of Rules to which reference will later be made, including the positions held by these Petitioners, immediately re-created a class known as Class B in which a number of male workmen younger in point of service than the Petitioners were re-assigned, which re-assigned employees have since performed work identical with that performed by the Petitioners at the time of their wrongful dismissal. Petitioners contend that the Carrier, by abolishing the class to which they belong, by re-establishing a Class B in which male employees assigned to that class were required to do and have since done exactly the same work as the Petitioners, members of Class C so abolished, and by re-assigning to the newly created Class B male employees younger in point of service than the Petitioners, has arbitrarily, wrongfully and in violation of the rules of seniority denied to them their rights.

EMPLOYEES' STATEMENT OF FACTS: 1. Petitioners state that the International Brotherhood of Firemen, Oilers, Roundhouse and Shop Laborers, is an unincorporated association with a local chairman located and with members residing in Paducah, Kentucky, including these petitioners as members thereof; that at all times complained of herein there was in effect between said labor union and the carrier, a labor agreement, a copy of which is submitted herewith and identified as "Petitioners' Exhibit No. 1," providing rules and regulations relating to the classification of employees, rights of seniority, and working conditions generally; and that said union was authorized to enter into said labor agreement with the carrier for and on behalf of the petitioners and for all of its other members employed at the aforesaid railroad shops in Paducah, Kentucky.

1. General Foreman
2. Master Mechanic
3. (General Superintendent Motive Power and/or
(General Superintendent Car Department
4. Manager of Personnel

As shown by the carrier's statement of facts and carrier's exhibits, a grievance involving the claimants was handled with the general foreman and master mechanic at Paducah, Kentucky, and this presumably is the same grievance now appealed to the Second Division. No such claim or grievance, nor any other involving these claimants, has been appealed in writing in the usual manner, as required by the Railway Labor Act, as amended, through the proper appeal channels up to and including the manager of personnel, who is the chief operating officer of the carrier designated to handle such disputes. Therefore, the claim is not valid account not handled on the property as required by law. In Second Division Award 1852, the Board said:

"The evidence of record shows that this case has not been handled in accordance with Section 3, First (i), of the Railway Labor Act and the terms of the current agreement.

"The rules of procedure of the National Railroad Adjustment Board require that 'No petition shall be considered by any division of the Board unless the subject matter has been handled in accordance with the provisions of the Railway Labor Act, approved June 21, 1934.'

"This Division has previously held in Awards Nos. 514, 1275, 1680, 1718, 1720, 1721, 1725, 1746 and 1748:

'In order that this Board might assume jurisdiction of a dispute on petition, it must appear that the dispute has been handled in the usual manner in negotiations with the carrier as provided by the statute; and that it is only in case there has been a failure to reach an adjustment in the manner so provided that this Board will review such proceedings. In the instant case there was no compliance with the statute on the part of petitioner. The usual manner of negotiating with the carrier was not complied with. There was no failure to reach an adjustment in the usual manner.'

"Due to the claimants' failure to pursue the required method of presenting their grievance, this Division of the National Railroad Adjustment Board is without power to pass upon his claim."

This claim 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.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The Railway Labor Act contemplates that before a grievance can be brought to this Board it "shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes." This was not done with respect to the claim that is pending before this Board.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois this 7th day of October, 1959.