

Award No. 3535
Docket No. 3747-I
2-IC-I-'60

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

AVERY L. RAGSDALE

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEE: That as set out in the Statement of Facts herein the Carrier, by furloughing the Petitioners, members of Class C, on February 27, 1958, by not permitting them to resume their employment or to bid for positions of employment to which they were entitled by reason of their seniority, and by employing workmen in Class B, all of whom were younger in in point of service than the Petitioners, to take over and hold their positions, has arbitrarily and illegally denied to them their rights of seniority.

EMPLOYEE'S 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 a labor agreement in effect between said labor union and the carrier providing rules and regulations relating to the classification of employes, rights of seniority, and working conditions generally; and that said union was authorized to enter into said labor agreement with the carrier and on behalf of the petitioners and for all of its other members employed at the aforesaid railroad shops in Paducah, Kentucky.

A copy of the aforesaid schedule of rules is filed with and as a part of the original of the petition for submission herein.

2. That the petitioners entered the service of the carrier and acquired rights of seniority under the aforesaid labor agreement on the following dates:

Sallie M. Dawson	— May 22, 1943
Opal Blanton	— May 24, 1943
Avery L. Ragsdale	— June 11, 1943

3. Each of the petitioners, Sallie M. Dawson and Opal Blanton, was regularly employed and a member of Class C from the date she entered the service of the carrier at its railroad shops in the City of Paducah, Kentucky, until February 28, 1958 on which date they were released from their employment, wrongfully, illegally, and in violation of their rights of seniority; that the Petitioner Avery L. Ragsdale was regularly employed and a member of Class C from the date she entered the carrier's service until January 31, 1958, at which time she also was released from her employment, wrongfully, illegally and in violation of her rights of seniority; and that the action of the carrier in releasing the petitioners from its service was wrongful, illegal, and in violation of their seniority rights by reason of the following statement of facts:

the interpretation put upon that agreement by the parties thereto; those parties being in accord that the claim is without merit it must be denied."

In Third Division Award No. 6248, the Board said:

"The evidence of record reveals that the parties to the controlling Agreement are in accord that the claim is not supported by the rules."

Similarly, in Third Division Award 9270, the Board said:

"The record shows that there is agreement between the parties signatory to the applicable agreement concerning the propriety of the action taken thereunder in the instant case. Accordingly, Petitioner's claim herein is without merit."

See also Third Division Awards 5558, 6895, 6915, 7490, and 7942.

The claim is not supported by the rules, and the parties to the controlling agreement are in accord that it is not valid. The claim should be denied.

FINDINGS: The Second Division of the Adjustment Board, based 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 waived right of appearance at hearing thereon.

Since the evidence of the record does not show any employees junior to the claimant were retained in the service, the controlling agreement does not support the position of the claimant in this docket.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

Executive Secretary
ATTEST: Harry J. Sassaman

Dated at Chicago, Illinois, this 21st day of September 1960.