

Award No. 3648
Docket No. 3775-I
2-P&LE&EW-I-'61

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

GEORGE J. WAGNER

THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
and
THE INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS

DISPUTE: CLAIM OF EMPLOYEE:

1. Should petitioner be reinstated to employment by respondent Railroad by reason of unjust and discriminatory discharge?
2. Should petitioner be awarded back pay?
3. Should petitioner be reinstated into membership in respondent Union?

PETITIONER'S STATEMENT OF FACTS AND POSITION:

MC-1706
SUBMISSION OF GEORGE J. WAGNER

George J. Wagner seeks to be reinstated into membership in respondent union and damages for wrongful discharge and loss of earnings upon the following cause of action:

1. The former employe is a resident of Pittsburgh, Allegheny County, Pennsylvania.
2. The International Brotherhood of Electricians, Local #1305, hereinafter referred to as the "local union" is an unincorporated union association wherein the employe was and assertedly is at all material times pertinent hereto a lawfully constituted member in good standing except for the membership and employment rights which he was unlawfully deprived as hereinafter set out.
3. Pittsburgh & Lake Erie Railroad Co. is a railroad corporation which at all times pertinent hereto was the employe's employer and was a party to a union-shop labor relations contract with the local union as aforesaid, by the

the claimant as a member of the International Brotherhood of Electrical Workers.

Carrier therefore respectfully submits that the claim for restoration to membership in the organization must be dismissed for lack of jurisdiction and that the remainder of the claim must be denied for lack of merit.

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.

This Division does not have jurisdiction over the question of reinstating claimant as a member of the Union and Part 3 of the claim is dismissed.

Claimant was delinquent in his periodic dues, was so notified, and on October 13, 1955 the organization demanded his removal from service of the carrier. In accordance with the applicable rules of the agreement hearing was granted on November 1, 1955, at which time claimant admitted he was delinquent in his dues payments and as of October 13, 1955 had failed to maintain his union membership in good standing. The decision rendered pursuant to that meeting resulted in termination of employment. Claimant subsequently appealed that decision to highest appeals officer of the carrier and on November 15, 1955, conference was held at which time claimant again admitted his failure to comply with the terms of the Union Shop agreement. On December 5, 1955, the carrier's highest appeals officer confirmed the decision to terminate claimant's employment under the Union Shop provisions of the agreement between the organization and the carrier.

We find no violation of the agreement, and also find that claimant was properly dismissed from service for failure to pay periodic dues and to maintain membership in the organization. Consequently the remainder of the claim must be denied.

AWARD

Parts 1 and 2 of claim denied, part 3 of claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of January 1961.