

Award No. 3675
Docket No. 3754
2-P&LE-TWUOA-'61

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Richard F. Mitchell when the award was rendered.

PARTIES TO DISPUTE:

TRANSPORT WORKERS UNION OF AMERICA,
A. F. of L.—C. I. O. (Railroad Division)

THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY AND
THE LAKE ERIE AND EASTERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

Chairman Charles Sheeley of Local 1427 asked Mr. Walters on May 4, 1959 for permission to go on the property to see his committee on Sunday May 10, 1959. On Friday May 8, 1959 Mr. Sheeley contacted Mr. Walters again but was not given any answer as to being permitted on the property on May 10, 1959. Mr. Charles Sheeley is the local chairman and he does represent the Organization and he did ask for permission to go on the property which was not granted and the organization would like this matter straightened out at once because if this is not done the organization will prefer charges against the carrier claiming discrimination.

EMPLOYEES' STATEMENT OF FACTS: This case arose at McKees Rocks, Pa., and is known as Case M-255.

Mr. Charles Sheeley is the chairman of Local 1427 and he does represent the organization at this point.

The carrier did refuse to give Mr. Sheeley permission to see his committeeman on Sunday May 10, 1959.

The carrier violated Rule 43 when the carrier refused Mr. Sheeley permission to see his committeeman on May 10, 1959. This was a case of discrimination on the part of the carrier as per this rule.

The Railroad Division, Transport Workers Union of America, AFL-CIO does have a bargaining agreement, effective May 1, 1948 and revised March 1, 1956 with the Pittsburgh & Lake Erie Railroad Company and the Lake

Carrier contends the representatives should conduct exclusively organization business at locations other than on the property of the carrier.

Organization representatives are given permission to enter carrier's property during their off-duty hours for the purpose of conferring with supervisory forces of the carrier relative to organization business.

The agreement does not support the claim; it is without merit and should be denied.

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 grievance in dispute involves the refusal of the carrier upon request of Local Chairman Sheeley to grant him permission to enter the Carriers car repair facilities on Sunday May 10, 1959, to see his committee, and to discuss certain matters with members of his committee, who were working on Sunday May 10, 1959. The request was denied.

Notice of intention of the organization to file an Ex parte Submission in connection with this grievance was given to the Board under date of May 23, 1960, more than a year later, therefore the matter in dispute involving the date of May 10, 1959 was moot before the jurisdiction of the Board was involved, so the claim will be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of February 1961.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3675

The majority in Award 3675 declares that the matter in dispute involving the date set out in the claim (May 10, 1959) is "moot" because the notice of intent to file an ex parte submission in connection with this grievance was not filed until May 23, 1960. This finding is erroneous.

The employes submitted a grievance involving a practical and real question arising from the application and interpretation of the existing col-

lective bargaining agreement and submitted this dispute well within the procedural time limitations required.

The majority by use of highly strained legal and technical construction evades the purpose and intent of the Railway Labor Act. We dissent.

Edward W. Wiesner

R. W. Blake

Charles E. Goodlin

T. E. Losey

James B. Zink