



**Award No. 5780**

**Docket No. 4537**

**2-SCL-CM '69**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Bernard J. Seff when award was rendered.

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'  
DEPARTMENT, AFL-CIO  
(Carmen)**

**SEABOARD COAST LINE RAILROAD COMPANY  
(Formerly Atlantic Coast Line Railroad Company)**

**DISPUTE: CLAIM OF EMPLOYEES:**

- (a) That, under the controlling agreement Car Inspector W. H. Chaplin, Waycross, Georgia has been denied his contractual right to work since December 13, 1962.
- (b) That accordingly the Seaboard Coast Line Railroad Company be ordered to restore him to service with seniority, vacation rights and all other benefits accruing to him under the current agreement unimpaired, and pay for all time lost, at the applicable rate, since December 13, 1962.

**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 instant case comes before the Second Division of the National Railroad Adjustment Board as a result of the Order and Decree of Federal District Judge Charles R. Scott who issued his final Judgment Order on August 29, 1968 in the case known to the U. S. District Court as System Federation No. 42 v. Braidwood, etal, No. 67-377-Civ-J. The Federal District Court found as follows:

"The Court concludes that there is no genuine issue as to any material fact, that no trial is required, and that pursuant to Section 3 First (q) of the Railway Labor Act and not inconsistent with the Memorandum Opinion rendered April 19, 1968, in the United States District Court, Northern District of Illinois, Eastern

Division in System Federation No. 30 v. Braidwood, et al., No. 67 C 708, (a case involving substantially identical issues with respect to Award No. 4692 by the Second Division of the Board a copy of which is attached, plaintiffs are entitled to judgment setting aside Award No. 4693 and remanding the proceedings to the Second Division for further action in accordance with that Memorandum Opinion.

**"IT IS THEREFORE ORDERED THAT:**

"1. Award No. 4693 of the Second Division of the National Railroad Adjustment Board hereby is vacated and set aside:

"2. These proceedings are hereby remanded to the Second Division of the Board and it is directed to reopen its docket No. 4537; to hear and determine the dispute before it in that docket, which hearing may include convening a panel of neutral doctors; to decide and determine the issues raised by the claims and defenses asserted by the parties in that docket; and to render an award disposing of the claim or claims therein on their merits:

..."

In complying with the aforementioned court order it becomes necessary that the claimant be examined by a panel of neutral doctors. Accordingly this Board rules as follows:

1. The Carrier's and the Claimant's doctors are requested to jointly agree upon the selection of a third or neutral physician.
2. The decision of the third doctor shall be final and binding on the parties to this dispute.
3. Both the Carrier's and Claimant's doctors shall furnish to the neutral physician complete medical records as of December 13, 1962 and all other pertinent medical records.
4. A detailed explanation of the duties of a Carman shall also be supplied to the neutral doctor so that he may properly evaluate the physical fitness of the Claimant as required by the duties of the job of a Carman.
5. The medical panel composed of the Carriers, Claimants and neutral doctors shall submit their findings to this Board.
6. The findings set forth in 5 above shall be submitted to this Board not later than thirty (30) days from the date of the instant Award.
7. Upon receipt of the final medical determination the Board shall make its final disposition of the instant claim.

**A W A R D**

This claim shall be remanded in accordance with the above findings.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Second Division

**ATTEST: Charles C. McCarthy**  
Executive Secretary

Dated at Chicago, Illinois, this 16th day of October, 1969.

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