



Award No. 5856

Docket No. 4537

2-SCL-CM- '70

**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 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 pursuant to that part of Award No. 5780 the operative sections of which required that:

1. That Carrier's and the Claimant's doctors jointly agreed upon the selection of Doctor Bernard D. Packer the third or neutral physician.
2. Doctor Bernard D. Packer, whose decision is final and binding on the parties to this dispute, issued his decision on November 5, 1969, as follows:

"(1) Claimant Chaplin is able to return to work in the capacity of a carman inspector.

(2) In answer to question (2) it is surmised that Chaplin was able to perform all of the tasks as a carman some time after 1964 and more nearly at a point between 1964 and 1969."

Based upon the findings of the neutral doctor and the merits of the case Part (a) of the claim is sustained.

Similarly, under Part (b) Claimant is restored to service with all rights restored and paid for all time lost, at the applicable rate, minus any earnings he may have had in any other employment, for the period from June 1, 1966 to December 31, 1969.

A W A R D

Claim sustained as set forth in the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 4th day of March, 1970.