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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6338
Docket No. 6161
2-SPT(T&L)-EW-'72

The Second Division consisted of the regular members and in addition Referee Robert G. Williams when award was rendered.

Parties to Dispute: (System Federation No. 162, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(Southern Pacific Transportation Company
((Texas & Louisiana Lines)

Dispute: Claim of Employees:

1. Did the Southern Pacific Transportation Company (Texas and Louisiana Lines) violate Rule 15 and Rule 16 of the controlling agreement between Southern Pacific Company (Texas and Louisiana Lines) and Equipment Installers, Telephone and Telegraph Linemen and Groundmen represented by System Federation No. 162, Railway Employees' Department, AFL - CIO, effective January 1, 1968, when they removed Mr. J. M. Peace from the service of the Carrier on August 24, 1970?
2. If so, then accordingly, the Southern Pacific Transportation Company be ordered to restore the seniority of Mr. J. M. Peace as of September 29, 1958.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Rule 15 provides for an unlimited leave of absence "in case of sickness". The Claimant has asserted that he was absent from work due to an arthritic condition. A preponderance of the evidence shows, however, that the Claimant's condition would not prevent him from returning to his regular duties. In the medical opinion of the

Carrier's doctor the Claimant was fit to return to work. The Claimant was asked to furnish a contrary report from his personal physician, but none was forthcoming. An employee who in good faith wants to take advantage of the unlimited leave provision of Rule 15 should be willing to provide some medical evidence of his continuing illness. The Claimant in this case has not provided any current medical evidence contravening the medical opinion of the Carrier's doctor.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

E. A. Killen

Executive Secretary

Dated at Chicago, Illinois, this 7th day of July, 1972.