

(Advance copy. The usual printed copies will be sent later.)

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6452
Docket No. 6282-I
2-LI-I-'73

The Second Division consisted of the regular members and in addition Referee Irving T. Bergman when award was rendered.

Parties to Dispute:

(Frank Joseph Turchiano, Petitioner
(
(
(The Long Island Rail Road Company

Dispute: Claim of Employees:

- A. On or about February 7, 1970, a claim on my behalf was filed with the Carrier at my request by John J. Wasloski, International Representative, International Brotherhood of Firemen & Oilers (copy attached). This claim was subsequently the subject of negotiations between the Carrier and Mr. Wasloski which resulted in Mr. Wasloski executing a letter agreement which purported to settle the claim for \$300 to be paid to me. I contend that this purported settlement is not binding on me for reasons to be stated in my submission.
- B. If the Board agrees with my position that the purported settlement of my claim by Mr. Wasloski is not binding on me, I respectfully request that the Board make an award with respect to the merits of my original claim.

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 employees 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 waived right of appearance at hearing thereon.

Claimant held the position of stationary fireman. A position as stationary engineer was posted for which there were no bidders who were qualified as stationary engineer. Claimant was permitted to fill the vacancy. A disagreement arose over the rate of pay for claimant who was not licensed as a stationary engineer. The claim is for the additional pay up to the rate for stationary engineer. The claim was processed through the usual channels between the representatives of the organization and the carrier, and was settled.

Claimant argues that the Organization's representative did not favorably represent him; that he did not agree to the settlement; that he took no part in

the negotiations; that he is not bound by the settlement.

The carrier contends that the claim must be dismissed because it was not timely, on the merits and because the settlement on the property disposed of the matter.

The Railway Labor Act provides for and encourages the settlement of disputes on the property through steps and representatives agreed upon between the parties. Rule 30, of the controlling agreement provides that a grievance may be presented by the aggrieved employee, "or the duly accredited representative on his behalf". Rule 31, defines "duly accredited representative" as the, "regularly constituted Committee (or any member or members thereof) --- or the Officers of the Organization of which that Committee is a part."

It is not disputed that claimant presented his claim through the duly accredited representative of the Organization of which he is a member. The settlement reached is binding upon the carrier and upon the Organization whose representative the carrier dealt with in good faith.

In the case of Pizynski vs New York Central Railroad Company, 421 F 2d 854, it was stated by the Court on P. 859, in substance, that the carrier has the right to rely on the authority of a union to settle an employee's grievance where the employee did not negate the authority of the union while he had knowledge that action was being taken in his behalf.

Also, prior Awards have decided that settlements made on the property will not be disturbed by this Board. See Second Division No. 3815, Third Division No. 4148, No. 7061, No. 11563, and Fourth Division No. 1023 and No. 1053.

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 27th day of February, 1973.