

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

RAILWAY EMPLOYEES' DEPARTMENT, A. F. OF L. (MACHINISTS)
TEXAS AND PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES.—Request for reinstatement of Machinist Helper C. C. Mays to service with the Texas and Pacific Railway Company at Fort Worth, Texas, with pay for time lost since date of dismissal, May 14, 1934.

POSITION OF EMPLOYEES.—Machinist Helper C. C. Mays was suspended from service on May 9, 1934, pending an investigation, allegedly for insubordination, and was dismissed from the service May 14, 1934, the employees claiming that C. C. Mays was discriminated against because of his activities in connection with organizing the employees of the Texas and Pacific Railway Company, and not for the reasons given by the carrier as the basis for his dismissal.

POSITION OF CARRIER.—That C. C. Mays was dismissed for insubordination in connection with the performance of his work, both to his immediate supervisor and to the general foreman.

Further, that this claim is not a dispute within the meaning of Section 3 (i) of the Railway Labor Act as amended in 1934, and the Second Division of the National Railroad Adjustment Board should, therefore, not assume jurisdiction.

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

The carrier and the employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

The parties to said dispute were given due notice of hearing thereon.

After giving due consideration to the carrier's contention that the Second Division is without authority to handle this dispute, this Division does assume jurisdiction.

Owing to the circumstances surrounding this case, the discipline is held to be excessive.

AWARD

Mr. Mays will be reinstated with full seniority rights, without compensation for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 6th day of November, 1935.