

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)
MISSOURI PACIFIC RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES.—Claim of Boilermaker J. E. Ambort for compensation equal to 45 days pay as a boilermaker welder, rate of 86¢ per hour, a total amount of \$307.80, for time lost due to being discharged, effective December 11, 1933.

EMPLOYEES' STATEMENT OF FACTS.—Mr. J. E. Ambort was, effective December 11, 1933, discharged; he was reinstated, seniority unimpaired, February 16, 1934.

POSITION OF EMPLOYEES.—The committee takes the position that Mr. Ambort was discharged due to his affiliation with the I. B. B. I. S. B. & H. of A. (boilermakers' international union) and not for cause as claimed by management, i. e., defective welding on seam of smoke box, engine 1427. We are offering, to offset this claim, Exhibit A (statement of J. E. Ambort), wherein he states that the job was improperly fitted up for an efficient job of welding; also the opening was in excess of the company requirements for welding on this class of work, and while in the operation of welding he was stopped to allow other workmen to do some other work on the job, causing his weld to cool and subjecting it to contraction and expansion, which caused the break in the weld performed; also various other items in statement wherein Mr. Ambort defended his position with frank admissions.

We contend that it is not now, and never was, the practice of the railroad company to force men to weld important jobs with the preparation of this job, leaving openings of $\frac{1}{4}$ to one inch for welding.

We also contend that very few, if any, welds done under these circumstances fail to develop cracks from expansion, and further, that cases similar to this happen almost every day without the employe being discharged for cause. We also contend that there is no matter of record where the railroad company discharged welders due to cracks developing in welds caused from expansion or contraction, and not due to circumstances under the control of the welder.

You are respectfully referred to that part of chief mechanical officer's letter wherein he states that Mr. Ambort was requested by the supervision at the shop to report for inspection of his work, and investigation, which he refused to do, later, returning to the shop and stating his case to shop superintendent in presence of chief clerk, and that he would be willing to return to service on a leniency basis. Mr. Ambort was denied a representative of his own choosing and would not submit to investigation account of this denial of his rights, and it will be noted that there was no investigation of this case and it was settled by shop superintendent and his chief clerk with no witnesses present, and there is no matter on record wherein Mr. Ambort was represented by any committee whatever.

We also contend that there is nothing of record to indicate Mr. Ambort was reinstated on a leniency basis or that he had waived claim for compensation for time lost.

We are, therefore, in compliance with Rule 32 (e) of agreement in effect as of 1929 and up to and including agreement of October 31, 1934:

"Rule 32. (e). If it is found that an employe has been unjustly suspended or dismissed from the service, such employe shall be reinstated with his seniority unimpaired, and compensated for the wage loss, if any, resulting from said suspension or dismissal."

claiming compensation in the amount aforementioned.

There was no violation of any of our wage rules in the handling of Mr. Ambort's case and there is no basis thereunder for his claim for compensation for the time he was out of our service.

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.

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

The evidence in this case does not support the petition of the employes for compensation for wage loss.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 3rd day of December, 1936.