

Award No. 745
Docket No. MC-330-23
2-D&RGW-I-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

M. L. ALLEY, PETITIONER

vs.

**THE DENVER & RIO GRANDE WESTERN RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYEE: Claim for reinstatement to position as autogenous welder at Pueblo, Colorado, and compensation in full for all time lost since February 15, 1938, also restoration of seniority rights and pass privileges.

FACTS AND POSITION OF PARTIES: Petitioner states that he was unfairly removed from service of the company and denied the privilege of securing an investigation. The carrier states that the job which Mr. Alley held was abolished, causing Alley to be furloughed; that no claim on behalf of petitioner has been presented to the carrier by the general chairman of the federated shop crafts, neither has the carrier discussed this case with Mr. Alley, although on two different occasions, namely, March 29 and April 11, 1938, dates were made with Mr. Alley for discussion of his claim and in each instance carrier was advised that he could not be present; therefore, it is the carrier's contention that there is no justification for petitioner's claim, also that he has not handled this dispute in accordance with the provisions of the Railway Labor Act as amended June 21, 1934.

OPINION OF THE DIVISION: In order that this Board may assume jurisdiction of a dispute on petition, it must appear that the dispute has been handled in the usual manner in negotiations with the carrier as provided by the statute; and that it is only in case there has been a failure to reach an adjustment in the manner so provided that this Board will review such proceedings. In the instant case, there was no compliance with the statute on the part of petitioner. The usual manner of negotiating with the carrier was not complied with. There was no failure to reach an adjustment in the usual manner. Petitioner, having failed to pursue the required method of presenting his grievance, which in this case was that provided by the agreement between the carrier and the employees, this Board is without jurisdiction to pass upon petitioner's claim. (See Gooch vs. Ogden Union Railway & Depot Company, Award 514.)

AWARD

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

**ATTEST: J. L. Mindling
Secretary**

Dated at Chicago, Illinois, this 14th day of April, 1942.