

Award No. 775
Docket No. MC-679-37
2-IC-I-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

LEONARD WILLIAMS, PETITIONER

vs.

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEE: Petitioner Leonard Williams claims that he should be restored to service as a carman by Illinois Central Railroad Company at Markham Yards, Cook County, Illinois, with seniority rights unimpaired and that he be compensated for all time lost since June, 1934.

FACTS AND POSITION OF PARTIES: The petitioner is attempting to have his claim for restoration to service and seniority rights with time lost decided by the Second Division of the National Railroad Adjustment Board.

The carrier contends that the Second Division of the National Railroad Adjustment Board has no jurisdiction over this case because it was not a "pending and unadjusted" case as of June 21, 1934.

OPINION OF THE DIVISION: Section 3 (i) of the Railway Labor Act as amended June 21, 1934, provides:

"The disputes between an employe or group of employes and a carrier or carriers growing out of grievances or out of the interpretation or application of agreements concerning rates of pay, rules, or working conditions, including cases pending and unadjusted on the date of approval of this Act, shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes; but, failing to reach an adjustment in this manner, the disputes may be referred by petition of the parties or by either party to the appropriate division of the Adjustment Board with a full statement of the facts and all supporting data bearing upon the disputes."

This Board does not have jurisdiction in cases that were not pending and unadjusted on the date of approval of this Act.

The record shows that the controversy was not made a dispute and there was no asserting of the claim until May, 1940.

This dispute was not pending and unadjusted within the meaning of the amended Railway Labor Act on the date of approval of the Act (June 21, 1934); therefore, this Board is without jurisdiction to pass upon the petitioner's claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 8th day of May, 1942.