

Award No. 1585
R.E.D. Case No. 2293
2-C&NW-MA-'52

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Upon failure of the Division to agree upon its jurisdiction to docket, hear and decide this case submitted by the Railway Employees' Department, A. F. of L., the Division selected the Honorable Edward F. Carter, as Referee to break the deadlock, as provided in Section 3, First (L) of the Railway Labor Act.

Following is the case in question, the opinion and award of the Second Division with Referee Carter sitting as a member thereof.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 12, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Machinists)

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That in conformity with the current agreement the carrier be ordered to compensate Machinist A. F. Oddo for all regular time lost during the period he was unjustly dismissed from the service, namely; November 22nd, 1949 through February 15th, 1950.

OPINION OF THE DIVISION: Claim is made by Machinist A. F. Oddo for time lost during the period he was unjustly dismissed from the service.

The case was formerly before this Board and was disposed of by Award 1493 of this Division. By that award, claimant was reinstated as a machinist with seniority unimpaired and the question of wage loss from the date of his improper dismissal on November 21, 1949 to the date he declined to return to service, February 15, 1950, was remanded for handling on the property. No adjustment of wage loss was made and the claim was again brought here but the Division has been unable to agree to the docketing of the dispute.

It is the contention of the carrier that claimant, by refusing reinstatement, has waived the right to any relief. We think not. When claimant decided not to accept reinstatement on February 15, 1950, he for the first time resigned and ceased to be an employee of the carrier. Any dispute growing out of the employer-employee relationship is within the jurisdiction of this Board. The termination of his employment does not have the effect of waiving rights or claims arising during the employment in so far as the jurisdiction of this Board is concerned in the absence of an agreement so providing.

Claimant should be permitted to docket his claim. This award is not to be construed, however, as bearing upon the merits of the dispute.

1585—2

813

AWARD

Leave to docket granted.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 24th day of November, 1952.