

Award No. 1660
Case No. MC-1429
2-IC-I-'53

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Upon failure of the Division to agree to docket this case, the Division selected the Honorable Edward F. Carter, as referee, to break the deadlock, as provided in Section 3, First (1) 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:

C. C. THOMPSON, Machinist

ILLINOIS CENTRAL RAILROAD

DISPUTE: CLAIM OF EMPLOYEES: Petitioner seeks an award recognizing his seniority as a machinist at McComb, Mississippi, dating from March 5, 1926, and for an amount equal to a machinist welder's pay from August 29, 1951 to the time petitioner's seniority is restored and recognized.

OPINION OF THE DIVISION: Claimant alleges that he is entitled to seniority as a machinist at McComb, Mississippi, as of March 5, 1926. Carrier asserts many reasons why the claim cannot be sustained by the Board. Briefly stated, some of them are:

1. That there was no claim or protest pending on the effective date of the Amended Railway Labor Act of June 21, 1934.
2. That the claim was not handled to a conclusion in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes.
3. That the dispute was not handled with the carrier through the duly authorized local or general committees or their representative as the agreement requires.
4. That notice has not been given to others in the same craft at McComb who would be affected by a sustaining award.

While some of the foregoing are sufficient, if established, to justify the Board in refusing to hear the claim on its merits, and in entering a dismissal, claimant is entitled to have his case docketed in order that a hearing may be afforded him. A refusal to docket constitutes a denial of relief without a hearing being given or an opportunity being afforded to meet the issues raised.

In the present case, the carrier specifically objects to a hearing on the merits of the claim because of the failure of claimant to conform to agreement

procedures. After docketing, the Board should determine in the following order:

1. If it has jurisdiction of the parties and the subject matter;
2. If agreement provisions have been complied with in progressing the claim to this Board, and
3. The merits of the dispute.

We think that the case should be docketed and such further action taken as the Railway Labor Act and the rules of the National Railroad Adjustment Board require.

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 March, 1953.