

Award No. 1845
Docket No. MC-1249-95
2-M&StL-I-'54

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

JOHN B. SQUASHINGROFF, INDIVIDUAL—Pipefitter Helper

MINNEAPOLIS & ST. LOUIS RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEE: The employee claims wages at the rate of thirty-eight cents per hour forty-eight hours per week between October 6th, 1937 and February 16th, 1939 and credit by certification of retirement credits for the same period for having been taken out of service illegally by the above named carrier at Watertown, South Dakota, on October 6th, 1937.

EMPLOYEE'S STATEMENT OF FACTS: That John B. Squashingroff had been employed as a laborer in the Watertown, South Dakota, roundhouse of the Minneapolis & St. Louis Railroad Company since November 16, 1931. That on April 9, 1935, the employee was assigned to do hostler's helper's work in the roundhouse at Watertown, South Dakota, while classified and working as a laborer. That the employee continued doing hostler's helper's work for said carrier until June 16, 1937. That on said date the employee, although continuing his classification as a laborer, began working as a boilermaker's helper in the Watertown, South Dakota, roundhouse and shops of the carrier involved.

That shortly thereafter the employee through his union representative, and personally, registered complaint with a Mr. Trout, the general master mechanic for the carrier involved, claiming that the rate of pay, that is thirty-eight cents an hour being paid to the employee, was not the proper rate of pay for the work actually being performed by the employee. That an assistant to said Mr. Trout named Goebel sent John McKelvin, the travelling roundhouse foreman of the carrier to Watertown, South Dakota, on the 4th day of October, 1937, and on that day informed the employee in the Eagle Annex Restaurant in Watertown, South Dakota, that the employee was being taken out of service effective forty-eight hours thereafter, and that said McKelvin at the time and place set above informed the employee as follows:

"John, I am going to take you out of service, you are too much of an agitator."

That at the time, the employee was the oldest laborer in the Watertown, South Dakota, roundhouse in point of seniority.

That on the 6th day of October, 1937, the employee was taken out of service and was not returned to the service of the employer until February 16,

All of the above information, data and facts with respect to his seniority, both as a boilermaker helper and a laborer, were fully explained to Mr. Squashingroff at a meeting held in the office of superintendent of motive power, in Minneapolis, October 25, 1937, at which meeting Mr. Squashingroff's representative, Mr. Henning, was also present.

That meeting was held at request of Mr. Henning because Mr. Squashingroff seemed to think that the seniority dates of some of the Watertown roundhouse laborers senior to him were incorrect, and that he had not been laid off in his seniority order.

However, it was clearly established at the meeting and agreed to by Mr. Henning, that Squashingroff was in his proper position on the seniority roster and had been properly laid off in force reduction.

Carrier believes claim to be entirely devoid of merit and respectfully requests your Honorable Board to so find.

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 claimant in this case is claiming wages of 38c. per hour October 6, 1937 to February 16, 1939, and retirement credits for this period. The record shows the claimant was employed prior to the period in question as a laborer. The employe's submission refers to an agreement between the Minneapolis & St. Louis Railway Company and System Federation No. 15, Railway Employes' Federation, Mechanical Section Thereof, effective November 12, 1934. This agreement was further cited by the employe's representative at the hearing. An examination of this agreement discloses that it does not include laborers.

The carrier's submission contains the following statement:

"Carrier's first record of claim for time claimed lost by Squashingroff between October 6th, 1937 and February 16th, 1939 was a letter dated May 21st, 1944 mailed to the Vice President & General Manager of the Railroad.

Investigation by the Carrier developed that there was no merit to the claim and it was therefore eventually declined."

From the record submitted by both parties, we are compelled to find the agreement relied on by the claimant has no application, and failing to cite any controlling agreement violation, the claim is without merit.

AWARD

Claim of employe denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November, 1954.