

Award No. 2096

Docket No. 1903

2-L&N-CM-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David R. Douglass when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1—That under the current agreement Carman Helper G. G. Philpot was unjustly dismissed from service on September 15, 1952.

2(a)—That accordingly the Carrier be ordered to restore this employe to service with all seniority unimpaired.

2(b)—Compensate him for all time lost retroactive to October 14, 1953, inclusive.

EMPLOYEES' STATEMENT OF FACTS: Carman Helper G. G. Philpot, with a seniority dating of June 12, 1945, was given leave of absence by the master mechanic by letter dated April 16, 1952, said leave to expire July 1, 1952. On June 11, Carman Helper Philpot, for reason of inability to return to work, requested an extension of his leave of absence for ninety (90) days.

Under date of June 30, 1952 the master mechanic declined to extend the leave of absence of Carman Helper Philpot.

Under date of August 11, 1952 the carrier general foreman wrote Carman Helper Philpot, advising him that he was charged with failing to protect his assignment after his leave of absence expired on July 1, 1952; that investigation would be held in his office at 9:00 A. M., Tuesday, August 19, 1952.

On September 4, 1952, investigation was held in the office of the general foreman, copy is herewith submitted and identified as Exhibit A. On September 15, 1952, master mechanic notified Carman Helper Philpot he was dismissed from service for failing to protect his assignment at the expiration of his leave of absence.

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 this dispute were given due notice of hearing thereon.

The record before us indicates that the claim was not handled in accordance with the time limit provisions of the current agreement. Such being the record, the instant case should be dismissed without prejudice to the rules involved, but with prejudice to the instant claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 11th day of April, 1956.