

**Award No. 2665**  
**Docket No. 2510**  
**2-CGW-FT-'57**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

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**PARTIES TO DISPUTE:**

**CHICAGO GREAT WESTERN RAILWAY COMPANY**  
**SYSTEM FEDERATION NO. 73, RAILWAY EMPLOYEES'**  
**DEPARTMENT, AFL (Federated Trades)**

**DISPUTE: CLAIM OF CARRIER:**

Claim that the Carrier is not properly applying the August 21, 1954 Vacation Agreement.

**CARRIER'S STATEMENT OF FACTS:** In letter dated September 19, 1955, signed by general chairman of 16 Co-operating Organizations, request was made upon carrier's president for a joint conference to discuss various "unsettled matters". Conference began at Kansas City, September 29, 1955, at which time the subject of the instant dispute was included on a large docket of claims and grievances. At no time either prior to, during, or subsequent to conference, was claim handled with lower officers of appeal as provided by Rule 27 (a) of agreement (hereinafter referred to as Shop Crafts' Agreement) effective February 1, 1924 (Reprinted June 1, 1954) between the Chicago Great Western Railway Company and employes represented by organizations composing System Federation No. 73, and identical rule contained in agreement (hereinafter referred to as Firemen and Oilers' Agreement) between the Chicago Great Western Railway Company and the International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers (effective May 1, 1941) identified as Rule 11, reading as follows:

"Should any employe subject to this agreement believe he has been unjustly dealt with, or any of the provisions of this agreement have been violated, the case shall be taken to the foreman, general foreman, master mechanic or shop superintendent, each in their respective order, by the duly authorized local committee of the organization signatory hereto or their representative."

**EMPLOYES' STATEMENT OF FACT:** The carrier described cases are not ready for consideration and action by your Board. They are a group of unsettled disputes involving this carrier and System Federation No. 73, Railway Employees' Department, AFL-CIO, which have not been handled to conclusion on the property and the right of System Federation No. 73, Railway Employees' Department, AFL-CIO to endeavor to settle them by further negotiations or by means other than National Railroad Adjustment Board pursuant to Article V, Section 5, of the agreement of August 21, 1954, has been challenged by the carrier in the courts.

It is, therefore, our position that until the courts have determined this matter and until these disputes have been handled as provided in Section 3, First (i) of the Railway Labor Act, as amended, they are not properly referable to your Board.

**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.

This case is identical with that disposed of by our Award No. 2664 (Docket 2509) except that here the carrier asserts that the claim is barred by failure to comply with Article V, Section 1 (a) instead of Section 1 (b) of the Agreement of August 21, 1954. It appears that under the findings in that award this claim should also be dismissed.

#### AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November, 1957.