

Award No. 2911
Docket No. 2606
2-PRR-MA-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Kiernan when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYEES'
DEPARTMENT, AFL (Machinists)**

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the controlling Agreement Machinist Joseph Swanick was unjustly dealt with when the Carrier denied him the right to work, instead of using S. D. McDonald, Machinist, first trick, Air Brake Shop, on May 26, 1955.

2. That the Carrier be ordered to compensate Machinist Joseph Swanick, at his regular rate, for all overtime worked by S. D. McDonald, Machinist, on May 26, 1955.

EMPLOYEES' STATEMENT OF FACTS: Joseph Swanick, hereinafter referred to as the claimant, is employed by the Pennsylvania Railroad Company, hereinafter referred to as the carrier, on the Chesapeake Region, formerly the Maryland Division, as a machinist in the air brake shop department, Wilmington Shops, Wilmington, Delaware, first trick, with a seniority number of 14 on the machinist seniority roster of the Wilmington Shops. Claimant has served a full apprenticeship on the Pennsylvania Railroad, completing same on March 31, 1921, at which time he was issued a certificate qualifying him for all branches of the machinists' trade.

S. D. McDonald is employed as a machinist in the air brake shop department, Wilmington Shops, Wilmington, Delaware, first trick, with a seniority standing of number 90 on the machinist seniority roster of the Wilmington Shops.

to perform this work and that S. D. McDonald was properly used on such assignment even though junior in seniority to the claimant; and that the claimant is not entitled to the compensation which he claims.

Therefore, the carrier respectfully submits that your Honorable Board should deny the employees' claim in this matter.

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 is a companion case to Docket 2605, Award 2910.

Carrier in its submission stated that the foreman reached the conclusion that claimant was not qualified to perform the work here under discussion for the following reasons:

"Claimant was not familiar with the maintenance instructions covering repairs for this type of air compressor.

Claimant never was trained on 3-CD air compressors, which were first repaired in the Air Brake Shop only about seven years prior to May 26, 1955; he never served as an Apprentice with a machinist who was qualified to repair this type of compressor.

Claimant never had worked on a 3-CD air compressor.

Since 1941, at least, claimant never had worked on any air compressor."

Both the claimant and carrier submitted a "Joint Statement of Agreed-upon-Facts". Claimants' submission (first paragraph, last sentence) reads: "He served a full apprenticeship on the Pennsylvania Railroad, and, upon completion of same, January 31, 1921, was awarded a certificate declaring him qualified in all branches of the Machinists' trade".

This sentence does not appear in carrier's submission; however, the sentence as reported by claimant was not denied by carrier.

We see no need to repeat what has been said in Docket 2605, Award 2910. The facts, time and place are the same. For the reasons given in Award 2910 and for additional reasons herein we must hold that the claimant herein was qualified to perform the required work, and that the foreman discriminated.

Carrier pleads that it has not received due and proper notice of the claim. We hold to the contrary.

AWARD

Claim allowed at straight time rate.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of July, 1958.