

Award No. 3814
Docket No. 3710-I
2-IC-I-'61

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

HEYWOOD O. WATTS

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

Employee claims the amount of One Thousand, Six Hundred Ninety and 44/100 (\$1,690.44) Dollars to make him whole for loss sustained when he was improperly removed from seniority roster and prevented from working for the period of August 15, 1958 until January 2, 1959. The total includes fifty-five (55) working days at \$16.192 per day (8/18/58 through 10/31/58); forty-five (45) working days at \$16.832 per day (11/1/58 through 1/2/59); insurance expenses (Seven and 24/100 (\$7.24) Dollars per month for six (6) months.)

EMPLOYEES' STATEMENT OF FACTS: Employee was employed by carrier at Johnston Car Shop, Memphis, Tennessee as carmen apprentice and attending Memphis State University under the G. I. Bill. On 7/16/58, employee was removed from the seniority roster for allegedly failing to report for work as per letter dated 7/1/58 within the fifteen (15) day period. Employee had been under proper leave of absence for schooling. On 7/17/58, employee requested leave of absence to continue schooling and on 7/22/58 the leave was denied by the superintendent of car shop on the grounds that employee had been removed from the seniority roster. The removal was promptly and properly made a grievance. On 8/18/59, employee made a request to be reinstated to working status from his leave of absence status but the request was denied.

On 12/31/58, the employee was restored to the seniority roster.

Employee then made a grievance of the refusal of the company to make him whole, as indicated above, and processed the aforesaid grievance through the usual channels.

The basis for refusal to adjust the grievance is the alleged "60 day rule."

CARRIER'S STATEMENT OF FACTS: While employed as a carman apprentice at Memphis, Tennessee, Claimant Watts requested and was granted

Merits

The merits of the argument submitted in behalf of Claimant Watts are not entitled to be considered by the Board for reasons previously mentioned. However, the carrier submits that the claim is without foundation on its merits.

Watts' leave of absence to attend college, as previously shown, expired on June 1, 1958, and 30 days later, on July 1, 1958, he had **neither requested another leave nor returned to work**. Consequently, the superintendent car shop directed him to return to work within 15 days — by July 15 — or forfeit his seniority, and when he failed to respond to the recall to service his name was removed from the roster.

Watts protested the removal of his name from the seniority roster, claiming that his failure to return to work when recalled was because he was still attending college and wanted a leave of absence instead. The matter was handled by the general chairman with the manager of personnel, and they settled the case, on December 17, 1958, by reinstating Watts and granting him another leave of absence.

Watts said nothing at the time of his reinstatement but instead completed the semester at Memphis State College, which, incidentally, completed his requirements for a degree. Suddenly, on January 21, 1959, he was struck with the idea that he was **denied the right to work**, and filed the instant claim. The contention is, we think, untenable on its face. What happened to Watts was a direct result of his failure to properly apply for leave of absence or report to work when recalled. The carrier gave Watts exactly what he asked for when it, on December 17, 1958, reinstated his name on the seniority roster and granted him further leave of absence. He has no right to now claim that he was denied the right to work, which claim incidentally, even if valid, should have been made within 60 days from the alleged violation on July 16, 1958, under the provisions of Article V of the August 21, 1954 agreement.

Summary

The carrier submits that it has conclusively shown that the instant claim is closed and barred from further handling under the clear provisions of Article V of the August 21, 1954, agreement, and further that the claim is without foundation on its merits.

The claim should be denied or dismissed.

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.

Parties to said dispute waived right of appearance at hearing thereon.

The uncontroverted record here discloses that the claimant was restored to the roster with correct seniority date and leave of absence authorized for

the period in question; therefore there is no substantive basis for the present claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois this 15th day of September, 1961.