

Award No. 4545

Docket No. 4513

2-SAL-MA-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 39, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O. (Machinists)**

SEABOARD AIR LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement Machinist Local Chairman Wilbur Surles was unjustly treated when he was suspended from service and subsequently dismissed from the service of the Carrier for carrying out his duties as a Local Chairman.

2. That accordingly, the Carrier be ordered to restore Local Chairman Wilbur Surles to service with seniority and all other rights restored and compensate him for all time lost, retroactive to October 26, 1962.

EMPLOYES' STATEMENT OF FACTS: Wilbur Surles, hereinafter referred to as the claimant, was employed by the Seaboard Air Line Railroad Company, hereinafter referred to as the carrier, as a machinist at Jacksonville, Florida, on June 29, 1955. Claimant was, at the time of suspension, the duly elected local chairman of machinists representing the employees of that craft.

Claimant was regularly assigned to the 7:00 A.M. to 3:00 P.M. shift Monday through Friday, rest days Saturday and Sunday until his removal from service on October 26, 1962.

On October 29, 1962, the claimant was notified by letter to appear for investigation on November 8, 1962.

The hearing was postponed at the request of the claimant until 10:00 A. M. November 26, 1962.

The carrier elected, through its shop superintendent, who conducted the investigation, to dismiss the claimant.

This dispute has been handled with all officers of the carrier designated to

The fact that Mr. Surles was also local chairman of the machinists did not make him a privileged character nor excuse his defiance of authority and instructions. See Second Division Awards 2066, 2118, 1483.

There is no merit to the claim and it should accordingly be declined.

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.

This Division is asked by Machinist Local Chairman Wilbur Surles to find that he was unjustly treated when he was suspended and subsequently, after a formal investigation, dismissed from the Carrier's employ for insubordination.

A careful review of the record presented herein, which contains, inter alia, the claimant's department record, does not support the Organization's charge that the claimant was unjustly treated; therefore the claims for restoring Local Chairman Surles to service with seniority and all other rights restored and to compensate him for all time lost must be denied.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of July, 1964.