

The Second Division consisted of the regular members and in addition Referee Irving T. Bergman when award was rendered.

Parties to Dispute: ( System Federation No. 21, Railway Employees'  
( Department, A.F. of L. - C.I.O.  
( (Sheet Metal Workers)  
(  
( Southern Railway Company

Dispute: Claim of Employees:

1. That Pipefitter C. L. Hudson, Atlanta Diesel Shop was unjustly dismissed from service.
2. That Pipefitter C. L. Hudson be returned to his employment with Southern Railway with his seniority unimpaired and all other benefits he would have enjoyed had he of not been removed from service.

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 case is disposed of on a procedural defect so that it is not necessary to discuss the merits.

Initially, the Organization processed the claim to the Carrier's highest officer designated to handle such matters on appeal. When he denied the claim, the claimant as an individual, disregarding the Organization, filed his claim with the National Railroad Adjustment Board. In so doing, the claimant ignored the requirement for a conference. Subsequently, the Organization representative met with the Carrier representative in conference at which time the Carrier's position was that the Organization no longer could act in its representative capacity. The Organization has stated that it was duty bound to request the conference and thereafter was obliged to file this claim

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with the Board.

Prior to the hearing of this claim by this Division, the individual's presentation of his claim was processed resulting in Award 6540, dismissing the claim. It was found that failure to proceed to conference as required by the Railway Labor Act Section 2, Second, presented a procedural flaw which required dismissal.

Third Division Award 10952 and Awards cited therein have held that pursuant to the Railway Labor Act Section 3, First (M), Awards of this Board are final and binding whether made on the merits or on a procedural point.

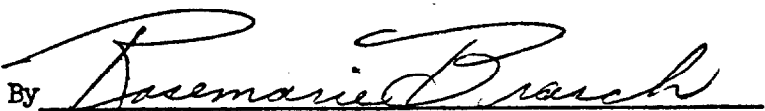
This being the same claim between the same parties which was dismissed in Award 6540 of this Division, the present claim is barred and we are required to dismiss it.

A W A R D

Claim Dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 7th day of May, 1974.