

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

Parties to Dispute

( Mr. R. D. Brakebill  
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( Toledo, Peoria & Western Railroad Company

Dispute: Claim of Employees:

1. They were told by myself that the position in which, (Mr. Harmon Miller, local chairman, and Mr. Jones Master Mechanic,) that I had no experience in the wheel shop, or no set up time on the wheel Machines,
2. The local chairman, Mr. Harmon Miller, of the Union, I, A, of M, told me they were having trouble with a colored fellow and had him "oyt of everybodys hair", and would prefer not too have that job disturbed. This position was the only other job I could have displaced and been reasonably save in doing the work as I have had experience in Inspection of locomotives.
3. The man I dispalced in the wheel sop offered no assistance in set up or running of the machines. Mr. Harmon Miller, spent one day in the wheel shop and had to show both of us how to properly run the Journal Lath. Both meaning Mr. Rick McWhorter and myself.
4. In the 3 weeks I was there as lead machinist I recieved no assistance from the men in the wheel shop or from the supervision.
5. The colored man was moved from job to job, to keep him out of everybody's hair.
6. My argument is if they can keep moving a man around because he is un-qualified for that job or whatever the reason, they can do it for another.
7. I was not told by any form of supervision that my work was not of their expectations or did they warn the man I displaced from the lead job, about his setting around for going off to another building to visit with his friends.
8. The Wheel maching (tread Lath) is not safe for use, and has not been for quite sometime. When in fact the helper and myself, had the machine down for approximately 1 week trying to shim the travel ways to make it safe to run.

When in fact the Master Mechanic, was and still is very much aware of the situation in the wheel shop, with the machinist Mr. Rick McWhorter, and the fact that in the last 3 weeks there was only 2 sets of wheels that had the tread and flanges turned on them by the above mentioned gentleman.

9. Mr. Harold Jones, Master Mechanic, is aware that the head on the tread lath gouges the tread of the wheel as shown in example 1-A. The gouge is normally the whole width of the tread or cutting tool and approximately  $1/8$  to  $1/4$  inch deep. If a machinist was to try and machine these gouges out then the wheel would be scrap, or out of limits.

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.

Carrier contends that the claim is not properly before this Board because Claimant failed to follow the contractually required handling on the property. Our review of the record reveals that Claimant is attempting to assert before this Board a matter which was not handled on the property pursuant to Rule 32 of the current agreement, and as required by Section 3 First (i) of the Railway Labor Act. Accordingly, the claim is barred from consideration by this Division and must be dismissed. See Second Division Awards 7026, 6992, 6874, 6829 and 7088.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Form 1  
Page 3

Award No. 7120  
Docket No. 6874-I  
2-TP&W-I-'76

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 20th Day of August, 1976 •