



Award No. 16738
Docket No. MS-17417

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

C. V. BAIN

CANADIAN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: This is to inform you that I will file an "Ex Parte Submission" within the next 30 days.

Question Involving: Seniority, unjust treatment, and right of choice, during reduction of staff, for employes, employed by the Canadian Pacific Railway, in the "Bridge and Building" department, of the Maintenance of Way, and covered by the "State of Maine and Vermont agreement."

Dispute: The dispute began when officials of the Canadian Pacific Railway at Saint John, New Brunswick, Canada, ordered American employes to exercise their seniority and report for work at Saint John, under the Canadian—Agreement 14. I immediately submitted a protest, believing that since I was senior in service and classification, I should have been given the right of choice. However, I was informed that my seniority gave me the right to work, but not the right to choose the location where I would be employed, during a reduction of staff.

I believe I was unjustly treated when ordered to report for duty at Saint John, where I was obliged to pay my expenses, and work for a lower rate of pay.

I contend: That I should have been given the right to exercise my seniority in my class or group, during this reduction of staff.

I further contend: That when the company officials on the Saint John Division ordered me to immigrate to Canada, they were violating my rights as an American employe, and denying me the preference of employment, in my own class or group in the State of Maine, on the seniority territory covered by the American agreement.

I believe this action which forced me to work in Canada, was a gross violation of my rights as an American employe; I, therefore, submit this notice of my intention.

OPINION OF BOARD: We have studied the record and considered the arguments presented by and in behalf of parties. We conclude that the Claimant has failed to furnish any factual proof that the Agreement was violated.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 1st day of November 1968.