

Award No. 8747

Docket No. MS-10734

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

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PARTIES TO DISPUTE:

H. O. GROTHNESS

WABASH RAILROAD COMPANY

**STATEMENT OF CLAIM:** The failure of the Wabash R. R. Co. to accept the decision of the Railroad Retirement Board which reads in part:

"The evidence in this case reveals that the appellant's physical condition—aside from his hearing—is essentially normal. Regarding the appellant's hearing, the file indicates that with a hearing aid (which he wears) he hears conversation normally. It is therefore the decision of the Appeals Council that the appellant's permanent physical or mental condition is not such that he is unable to engage in any and all regular employment within the meaning of the section 2 (a) 5 of the Railroad Retirement Act, . . ."

as competent medical evidence of petitioner's ability to engage in normal employment within the meaning of section 2 (a) 5 of the Railroad Retirement Act, and the continued refusal to process the case under Rule 25 (c) of the Order of Railroad Telegraphers Schedule and Agreement with the Wabash R. R. Co., has resulted in petitioner being barred from the only employment for which he is trained and experienced.

1. Therefore, a claim is made for re-instatement to former position or one of similar nature under section 2 (a) 5 of the Railroad Retirement Act.

2. A claim is made in the sum of \$4216.00, wages from January 6th, 1959, date of letter from Wabash R. R. Co., refusing to act in accordance with the decision of the Railroad Retirement Board, Appeals Council and refusing to process petitioner's request for re-instatement to Wabash R. R. Co., Montpelier Division, Montpelier, Ohio's active roster, under Rule 25, Order of the Railroad Telegraphers Schedule of Rules and Agreement with the Wabash R. R. Co.

**OPINION OF BOARD:** After a full and careful consideration of the entire record we conclude that the rules of the Agreement, relied upon by the petitioner, do not support his claims, either for re-instatement or compensation. The claims, therefore, must be denied.

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

That the parties waived hearing on this dispute; and

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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: A. Ivan Tummon  
Executive Secretary**

Dated at Chicago, Illinois, this 26th day of February, 1959.