

Award No. 9123

Docket No. MS-10684

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

ROBERT L. RAINES

**SOUTHERN RAILWAY COMPANY AND BROTHERHOOD OF
MAINTENANCE OF WAY EMPLOYEES**

STATEMENT OF CLAIM: The Statement of Claim as expressed by the Petitioner is as follows:

Petitioner desires an Award reinstating him to his position of employment with Southern, and restoring his full rights from April 15, 1958, date of discharge, and for any loss of earnings suffered from said date, the same to be determined upon the question of whether Petitioner's non-compliance with the Union Shop Agreement between Southern and Brotherhood was due to his wilfull refusal to pay an arrearage in dues to Brotherhood, or was failure to pay fault on his part, or whether failure to comply was by reason of a series of circumstances not of his making, or was it negligence, intentional or unintentional, or arbitrary and capricious action by Brotherhood, and whether same was concurred in and supported by Southern.

OPINION OF BOARD: The present claim concerns the interpretation of the controlling Union Shop Agreement. Specific procedural machinery has been set up by that Agreement to resolve all such questions. The prescribed procedure is final and binding upon the parties and, culminating as it does in a hearing before a neutral arbitrator, contains adequate checks and balances for the protection of the interests of all concerned, including those of the individual employees.

In the instant situation, the procedure established by the Agreement has been exhausted by the parties and a final and binding decision resolving the issues was handed down by the neutral arbitrator. That the Claimant, unlike most of the other employes in the dispute, elected not to appear at the hearing before the neutral arbitrator does not endow him with additional rights to prolong the dispute. It is incumbent upon the Claimant to abide by the prescribed procedure and the claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence finds and holds:

That the Carrier, Organization and Employee involved in this dispute are respectively Carrier, Organization 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of December, 1959.