

**Award No. 12140**

**Docket No. 19124**

**FIRST DIVISION**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**39 South La Salle Street, Chicago 3, Illinois**

**The First Division consisted of the regular members and in addition Referee Sidney L. Cahn when award was rendered.**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF LOCOMOTIVE FIREMEN  
AND ENGINEMEN**

**MUNICIPAL BELT LINE RAILWAY OF TACOMA,  
WASHINGTON**

**STATEMENT OF CLAIM:** Request that Switch Motorman (Locomotive Engineer) George Gaidos be reinstated, with seniority unimpaired, and paid what he would have earned had he not been discharged on March 20, 1943.

**FINDINGS:** The First 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.

The parties to said dispute were given due notice of hearing thereon.

This docket fails to disclose any legal proof by way of a transcript of testimony concerning the propriety of claimant's discharge. The Carrier thus failed to sustain the burden of proving the truth of its charges and the claimant cannot properly be subjected to discipline. Under such circumstances it is unnecessary to resolve the issue concerning the applicability of and the relative importance between the Civil Service Rules and Charter provisions of the City of Tacoma as opposed to the provisions of the Railway Labor Act.

**AWARD**

Claim sustained.

**BY ORDER OF FIRST DIVISION  
NATIONAL RAILROAD ADJUSTMENT BOARD**

**ATTEST: (Sgd.) T. S. McFarland  
Executive Secretary**

Dated at Chicago, Illinois, this 11th day of May, 1948.