

Award No. 991

Docket No. 935

2-Va.-EW-'44

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 40, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)**

THE VIRGINIAN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the then controlling agreement, the carrier arbitrarily deprived Crane Operator G. W. Linkenhoker of employment during the period of April 9, to 29, 1941, inclusive.

2. That the carrier be ordered to pay Crane Operator G. W. Linkenhoker the current rate for eight (8) hours each day for April 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 28 and 29, 1941, plus three (3) hours checking in and out allowance.

EMPLOYEES' STATEMENT OF FACTS: At Princeton, West Virginia, the carrier employs crane operators in both the locomotive department and the car department. The crane operators in the locomotive department were then maintained on one seniority roster and the crane operators in the car department were then maintained on another separate seniority roster.

Crane Operator G. W. Linkenhoker was employed in the car department and his seniority date is October 16, 1926.

Crane Operator G. W. Linkenhoker was notified he would be laid off, effective at the close of his shift on April 8, 1941. At that time there was a crane operator's vacancy in the locomotive department, rod and wheel shop and the electrical worker helper, A. C. Thomason, was temporarily used on this job. The claimant, through his local chairman, applied for this vacancy on April 7, the day previous to being laid off, and his request to resume work, operating this rod and wheel shop crane on April 9, was denied.

The carrier continued to operate this rod and wheel shop crane with Electrical Worker Helper Thomason although bulletined the vacancy on April 21, 1941. Claimant Linkenhoker again applied for this vacancy; he was the only bidder, and he was again denied the job. See the bulletin submitted, identified as Exhibit A. Claimant Linkenhoker was restored to service at his classification of crane operator in the car department on April 30, 1941.

Electrical Worker Helper Thomason, with seniority only on the helpers' roster as of October 3, 1940, continued to operate the rod and wheel shop crane until Crane Operator C. E. Miller was hired on June 14, 1941, and assigned to fill said vacancy. See the 1941 and 1943 seniority rosters submitted, identified as Exhibits B, C, D and E.

Under the then existing agreement, crane men came within the scope of the electrical workers special rules and their seniority was confined to each department,—locomotive or car, at point employed. (See Exhibit B.)

POSITION OF CARRIER: The carrier contends that Thomason, junior electrician, was assigned to the crane operator's vacancy in the rod and wheel shop of the locomotive department, on March 20, 1941, which was in accordance with Paragraph C of Rule 16 of the then existing agreement, and denies that when Linkenhoker was furloughed on April 7, 1941, there was a vacancy in the rod and wheel shop for a crane man. It further contends that under the seniority rules of the agreement the carrier could not displace Thomason and return him to his former position and assign Linkenhoker as crane operator for the period of his furlough.

It is the contention of the carrier that the claim of the employee is without merit or support, under the then schedule of rules and past practice, and should be denied.

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 waived right of appearance at hearing thereon.

The record in this case as submitted to the Division contains facts which do not warrant an affirmative award.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 18th day of February, 1944.