

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

1. That the St. Louis-San Francisco Railway Company violated the controlling Agreement and Memorandum of Agreement between St. Louis-San Francisco Railway Company and Brotherhood Railway Carmen of the United States and Canada, signed at Springfield, Missouri, the 8th day of July, 1977, effective July 1, 1977.
2. That accordingly the St. Louis-San Francisco Railway Company be ordered to compensate Carman Apprentices R. L. Hinkle, G. P. Donnell, R. D. Harlen, S. L. Jones, J. B. Dahlman, D. W. Anderson, R. C. Workman, J. E. Elbert, D. B. Taylor, D. L. Mettlack, O. D. Whitehead, J. B. Johnson, F. M. Donnell and D. L. Dieus for January 3, 1978, the difference in pay between Apprentice rate of pay and the Carman Journeyman-Welders rate of pay and for each hour thereafter.
3. That the aforementioned Apprentices be promoted.
4. That this claim is continuous until satisfactorily settled.

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.

Parties to said dispute waived right of appearance at hearing thereon.

This claim concerns interpretation of the Memorandum of Agreement dated July 1, 1977 concerning apprentices, as mutually agreed between the Carrier and the Organization.

For reasons which need not be detailed here, the Memorandum of Agreement established a list of "temporary carmen" consisting of apprentices and helpers who were serving in temporary upgraded journeyman positions at the effective date of the Memorandum of Agreement. The employees on this list were placed in order of length of service as temporary carmen, rather than in order of their seniority as apprentices or helpers.

All temporary carmen (that is, temporarily upgraded apprentices and temporarily upgraded helpers) were subject to a reduction of force at the Springfield Shops on or about December 23, 1977 and were set back to apprentice status. In this claim, there is no dispute as to the propriety of this action.

On or about December 30, 1977 and January 3, 1978, the Carrier set about restoring the forces and gave temporary upgraded status to apprentices in the order of their listing on the previously established roster of temporary carmen. In other words, the Carrier simply returned to the status prior to the December 23, 1977 furlough.

The Organization contends that this was in error, contrary to the general agreement between the parties, as well as the July 1, 1977 Memorandum of Agreement. According to the claim, upgraded to temporary carmen status should have been by seniority order as apprentice.

It is solely this difference which the Board is asked to resolve. Pertinent portions of the July 1, 1977 Memorandum of Agreement are as follows:

"6. (a) The practice of upgrading carman helpers is discontinued. In the event of not being able to employ journeyman mechanics of the Carmen's Craft or carmen with three years' experience, the force may be increased by promoting the senior qualified apprentices. ...

(e) A list of temporary carmen shall be prepared and maintained at each seniority point of those apprentices promoted to mechanics as set forth in paragraph (a) hereof. Such list of temporary carmen shall show the name of apprentices promoted in date order and the date promoted. In the event of more than one employe being promoted on the same date, they will rank according to the number of hours credited at that time towards completion of the training. When force is reduced, the junior temporary carmen will be set back first."

The Memorandum of Agreement is clear, in Section 6 (e), as to the order of reducing temporary carmen; i.e., "the junior temporary carmen will be set back first." Coming as part of a paragraph dealing with the order of listing of temporary carmen, this clearly refers to service in this capacity and not as apprentices.

Paragraph 6 (e) is silent, however, as to restoring the positions of temporary carmen. As the Organization points out, this is covered in Paragraph 6 (a) which states that, when needed, "the force may be increased by promoting the senior qualified apprentices". (Emphasis added).

However well intended the Carrier's action in giving preference to those employes who were on the temporary carmen list prior to the December 23, 1977 furlough, the Board cannot find support for this in the specific words of the Memorandum of Agreement. Paragraph 6 (a) is concerned with upgrading and speaks of priority for "senior qualified apprentices". (Emphasis added).

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The Carrier may argue that "qualified" refers to service on the temporary carmen list. Whatever other meaning "qualified" has, the Memorandum of Agreement does not specify such interpretation.

The Carrier also argues that Paragraph 6 (e) speaks of a temporary carmen list to be prepared and "maintained". Obviously, it was maintained after it was created, else it would be of no purpose. The Board cannot read this to mean, however, that after employees are set back they are given rights to be restored to such list, in the face of the requirements of Paragraph 6 (a) which deals specifically with upgrading.

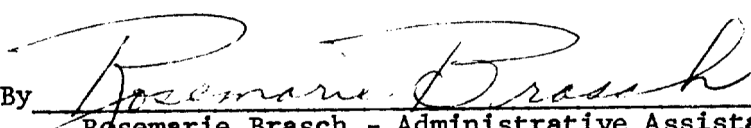
A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 21st day of January, 1981.