

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 45, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES.—That Floyd Clay, J. R. Ross, and Lee Bobbitt are improperly placed on the current seniority list of the carmen at Pine Bluff, Arkansas, in violation of Rule No. 20, sub-division No. 15.

POSITION OF EMPLOYES.—The agreement in effect previous to the current agreement dated November 1, 1926, had a seniority rule identical in every respect with Rule No. 20 of the current agreement dated December 1, 1933, which reads as follows:

"Seniority as provided for herein shall be determined by the days elapsing after the date of last employment, including time lost by leave of absence, reduction in force, or other excused cause, confined to each point of employment separately, by the craft or sub-divisions thereof (the seniority of journeymen, helpers, and apprentices being separate as between themselves) and seniority list shall be posted on January 1st of each year by the Association and the Company at each respective place of employment, and when so posted shall be binding and conclusive on all parties after the expiration of thirty (30) days or until changed by mutual agreement of the Association and the Company, to-wit:

- "1. Patternmakers.
- "2. Cabinet Makers.
- "3. Upholsterers.
- "4. Coach Builders.
- "5. Locomotive Carpenters.
- "6. Wood Mill Mechanics.
- "7. Painters—Decorators.
- "8. Painters—Coaters and Varnishers.
- "9. Painters—Plain Painting with brushes.
- "10. Car Inspectors (Freight and Passenger).
- "11. Caboose and Freight Car Body Builders.
- "12. Car Repairers.
- "13. Passenger Car Truck and Platform Men and Locomotive Truckmen.
- "14. Freight and Caboose Car Truck and Platform Men and Train Yard Light Repair Men.
- "15. Air Brake Rackmen.

"Provided, that when an employe is promoted or transferred from one sub-division to another, he shall retain and accumulate his seniority at the point and as a helper or in the sub-division which he held at the time of the promotion or transfer, and his seniority in the sub-division to which he is transferred or promoted shall begin on the date of such transfer.

"When two or more men make application for employment on the same day, the one starting to work first will be considered first on the seniority roster. If they start work at the same time, the man completing his application papers first will be considered first on the seniority roster."

A mechanic transferred from one of the fifteen sub-divisions to another becomes the youngest in seniority in the sub-division to which he transfers, but does not lose his seniority standing in the sub-division from which he transfers.

The employe last placed in any sub-division will be the first man removed from that sub-division, but he may place himself in the sub-division he previously worked in, according to his seniority in his previous sub-division. In a drastic reduction this might operate so that a man might finally be placed in

the sub-division he first was assigned to when beginning his service at the point at which employed.

Seniority of mechanics in each of the shop crafts is separate, and a mechanic of one craft going to work in another craft's jurisdiction would not carry any seniority from his own craft into the craft to whose jurisdiction he transferred; in fact, such transfers from the jurisdiction of one craft to that of another are almost unknown because of the well understood fact that seniority cannot be carried from one craft into another.

Mr. Floyd Clay was employed as a pipefitter at Pine Bluff, February 28, 1923, and worked as such until September 7, 1933. Sheet metal workers have jurisdiction over pipefitters, tinsmiths, coppersmiths, and the sheet metal workers' agreement covers pipefitters.

Mr. Clay was first shown on the carmen's seniority list in January, 1934, and the local committee of carmen at Pine Bluff protested this action on the same date the list was posted. Mr. Clay worked as a pipefitter in the sheet metal workers' craft until September 7, 1933.

Mr. Clay once worked as test rack operator for a period of eighteen days as an emergency assignment, due to the sickness of Mr. Goswit, the regular operator. However, a mechanic cannot be forced to accept a permanent transfer to a craft other than his own, and Mr. Clay availed himself of this protection and refused the permanent transfer when it was offered to him by Mr. Bobbitt in November, 1924, and remained in his own craft, namely, the sheet metal workers, as a pipefitter, until September 7, 1933.

Mr. J. R. Ross was employed as air brake man on coaches April 6, 1923, and, as such, his seniority rightfully began on that date in subdivision No. 4, which includes all men working in coach shop on coach bodies, except painters (coach truck and platform men belong in sub-division No. 13).

On August 10, 1930, Mr. Ross was assigned as test rack operator and under the seniority rule should be shown as having seniority in sub-division No. 15 as of August 10, 1930, whereas he is shown as having seniority in sub-division No. 15 as of May 30, 1924.

We contend that the seniority rule is being violated by giving Mr. Ross seniority in sub-division No. 15 as of an earlier date than that on which he actually began work as an air brake rackman, which date was August 10, 1930.

Mr. Lee Bobbitt was employed as air brake gang boss January 6, 1923, and has worked continuously in that position since that date. Mr. Bobbitt was carried on the seniority list of sub-division No. 4, with coach builders for a number of years.

We contend that Mr. Bobbitt, never having worked as an air brake rackman, is not entitled to any seniority in sub-division No. 15 and that his seniority should be confined to sub-division No. 4 where it was originally shown and continued to be shown thereon for a number of years.

POSITION OF CARRIER.—Mr. Floyd Clay was re-employed by the carrier on March 29, 1923, in the Passenger Coach Department as a pipefitter. Mr. Clay's present seniority date as test rack operator was established by referring his case to a committee composed of seven (7) carmen, members of the Association of Car Department Employees in August, 1933. On August 21, 1933, this committee by a vote of four (4) to three (3), reported that Floyd Clay, instead of J. R. Ross, had been chosen as the man entitled to the position as test rack operator. Based on this decision the seniority date of April 23, 1923, was given to Mr. Clay, as this was the first date that the regular test rack operator laid off. This seniority date, April 23, 1923, was not questioned until brought up by local chairman of the B. R. C. of A. on May 25, 1935.

Mr. J. R. Ross was re-employed as air brakeman in the Car Department on April 6, 1923. He now appears on the seniority list as test rack operator with seniority date of May 30, 1924. The seniority date as air brakeman was established when Mr. Ross was re-employed. In a previous case (L. L. Waymack vs. Frank Hughes), it developed that J. R. Ross had operated the triple valve test rack prior to the time that Mr. Waymack had operated same, and the date on which he operated the test rack was determined to be May 30, 1924. In view of this investigation determining that Ross had operated the triple valve test rack prior to the time that Mr. Waymack claimed that he had operated same, Mr. Ross was given seniority over Waymack, although he had no special claim therefor. This seniority date was not questioned until May 25, 1935.

Mr. Lee Bobbitt was re-employed on January 6, 1923, as air brake gang boss.

The seniority of air brake gang boss was established when Mr. Bobbitt was employed in that capacity. In the investigations conducted covering the seniority claim of Messrs. L. L. Waymack, J. R. Ross, and Floyd Clay, it developed that Lee Bobbitt when re-employed started to work on the triple valve test rack, and consequently he was given seniority as of the date he started operating the test rack.

FINDINGS.—The Second 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.

There appears to be ample evidence of violation of Rule 4-7 of the agreement of November 1, 1926, as well as Rule No. 20 of the existing agreement, in connection with the changes made in the seniority standing of Clay, Ross, and Bobbitt; therefore, seniority status of these men as shown on the current seniority list of carmen is wrong, and should be corrected strictly in accordance with the provisions of Rule No. 20, without prejudice to the rights of any carmen shown on the present seniority list in their respective sub-divisions.

AWARD

Claim of employes sustained in accordance with the aforesaid findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 27th day of February, 1936.