

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)
BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYEES.—That men who went to Concord, N. H., from Billerica, Mass., when passenger car shop was moved to Concord, N. H., from Billerica, Mass., should have all seniority accumulated at Billerica shop and Concord shop accredited to them on the present seniority roster at Concord car shop.

JOINT STATEMENT OF FACTS.—Passenger car repair work was done at Billerica, Mass., up to July 1, 1931. It was then discontinued at Billerica, and part of shop machinery and equipment of the passenger car shop was moved to Concord, N. H., where this work has been done since. Men employed in this passenger car shop at Billerica went to Concord, to resume work there as soon as the shop was ready for operation at the new location in Concord. They were given seniority at Concord as of the date the shops moved there in 1931 under the transfer rules of the agreement current in 1931.

POSITION OF EMPLOYEES.—The rule governing transfer of men from one point to another on the Boston and Maine Railroad is identical in intent if not in the exact language with practically all other agreements covering shopmen. It reads as follows:

"An employe transferred from one point to another with a view of accepting permanent transfer shall after thirty days lose his seniority at the point he left and his seniority at the point to which transferred shall begin on the date of transfer. Employes will not be compelled to accept a permanent transfer to another point." (Rule 208, Existing Agreement.)

Since the provisions of the above quoted rule leave it *optional* with the employes involved as to whether they wish to accept a permanent transfer or not, its provisions cannot properly be applied to govern a case where there is no option allowed the employes affected, and where they must go to a new location in order to continue doing exactly the same work they had been doing in the old location, using the same machinery and equipment, which was moved from Billerica to Concord.

The rule (208) quoted in the first paragraph (Position of Employes) is intended to govern cases where an employe leaves his seniority point to accept a position at another seniority point, at both of which points other employes of his craft have been working and continue to work after such employe or employes transfer. But in this case these employes, who were working in the passenger car department at Billerica, had to follow the work to Concord or have no work at all, as their class of work was discontinued at Billerica.

There was no seniority point for passenger car department maintained at Billerica after the date the work was moved, hence no opportunity for them to exercise any optional rights such as contemplated in Rule 208. In fact, some of these men left the service of the Boston and Maine Railroad altogether rather than move to Concord since there was no employment left at Billerica.

The freight car work and passenger car work at Concord now being done is divided into two seniority points, and, therefore, the granting of the employes' request cannot affect the freight car employes, the great majority of whom have been furloughed for some time, while the passenger car employes have been working. We are not asking that anything be taken away from any employe, but are asking that the seniority these passenger car department

So far as the cases enumerated on the New York Central, Michigan Central and Big Four are concerned, it is our position that they are irrelevant, as they cover something which was negotiated between the accredited representatives of the employes and the proper officers of the railroad, and what was done by those parties on those roads is binding so far as the particular transactions are concerned and likewise what was done between the organization then holding the contract and the Boston and Maine officials in connection with men who went from Billerica shop to Concord is binding.

At another place in the Position of the Employes they state:—

“Had this passenger car work merely been moved across the main track to a new building, there probably would have been no question raised as to the employes affected carrying their accumulative seniority to new location and whether they moved across the track or across the State Line, the principle that should have governed is the same.”

Effective September 1, 1925, at Concord, N. H., a new enginehouse and back shop were opened up, and mechanics who had worked on locomotives in the old location, which was across the track from where the work started in September, 1925, who went to the new location started their seniority there as of September 1, 1925. We simply cite this to show that the organization and the railroad officers acted consistently in such matters.

Another paragraph of the employes' position reads:

“Our understanding is that stores department employes who went to Concord when this move was made did carry their Billerica seniority with them and now have credit for same on the Concord roster. Some of these men are Chester Heywood, John Sullivan, Robert Costello, and Pat Mahoney.”

Of the men referred to, one is a store helper and the other three are laborers, and both classes are covered by an agreement with the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, and the rules of that agreement, of course, apply, and not the rules of the shop crafts' agreement.

Rule 27 of clerks' agreement provides:

“Employes transferring with their positions from one seniority district or roster to another at request of management shall retain their positions and seniority rights in the district or roster to which transferred.”

The four men referred to in the employes' position were given their Billerica seniority rights when they transferred to Concord, in accordance with the rule quoted.

Many questions arose under the so-called “National Agreement” as to what constituted a point under Rule 31 of that Agreement, and those questions were uniformly answered by Assistant Director Frank McManamy in the following language:

“Whether a town, city, shop, or shops shall constitute a point should be settled by mutual agreement between the General Officers and the General Chairmen of the Federated Trades as conditions in this respect are so varied that local conditions should govern.”

The principle laid down by Mr. McManamy was followed when passenger car work at Billerica was transferred to Concord. What seniority the former Billerica men should have at Concord was settled by mutual agreement between the general officers of the railroad and the authorized representatives of the organization holding the contract at the time, and that agreement should continue.

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 waived right of appearance at hearing thereon.

The rules of agreement in effect between the parties did not permit transfer of seniority from one point to another.

These men were transferred to another point, and no special agreement was negotiated to take care of the particular situation involved in this case.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 3rd day of December, 1936.