

Award No. 146

Docket No. 153

2-D&SL-BM-'37

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 47, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

THE DENVER AND SALT LAKE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: What is the proper seniority date of Hubert B. Troxel, boilermaker, with the Denver and Salt Lake Railway Company?

JOINT STATEMENT OF FACTS: Mr. Troxel entered the service of the carrier as a boilermaker at Tabernash, Colorado, on December 10, 1922.

On April 9, 1923, he was transferred in the service from Tabernash, Colorado, to Utah Junction, Colorado, and was there employed as a boilermaker until he was laid off because of force reduction July 17, 1923.

On June 12, 1935, Mr. Troxel was re-employed as a laborer at Utah Junction, Colorado.

On August 15, 1935, he was transferred in the service from the status of laborer to that of car repairer helper at Utah Junction, Colorado.

On November 25, 1935, he was transferred in the service from the status of car repairer helper to the status of boilermaker apprentice at Utah Junction.

On February 10, 1936, he was transferred in the service from the status of boilermaker apprentice to the status of boilermaker at Utah Junction.

During the period between July 1, 1922, and April 1, 1936, there was no agreement in effect between the carrier and its shop craft employees. During this period the carrier did not recognize seniority rights as any exclusive factor in promoting, laying off, or returning employees to the service. An individual merit system was in effect with reference to preference in choice of jobs, in matters of rates of pay and in matters of retaining or returning employees to the service. Some employees received higher rates of pay than other employees in the same craft, because of their individual qualifications, length of service, etc.

Seniority rights were not confined to any particular craft or group. An employe might start to work in a certain craft or classification and later be transferred to an entirely different craft or classification and carry with him his original seniority date to his new classification.

When the carrier found it necessary to reduce its working force in any class or group, employees to remain in the service were selected by the carrier, not always under the seniority rule, but at times with the object in view of retaining such men who, in the opinion of the carrier, were best qualified to

Under date of July 27, 1936, Troxel addressed a letter to General Superintendent Johnson requesting a conference on the same subject.

Under date of September 4, 1936, General Superintendent Johnson met with Mr. Troxel and discussed the matter with him. As a result of that meeting, under date of September 4, 1936, General Superintendent Johnson addressed a letter to I. J. Esbenson, president, System Federation No. 47 (Joint Exhibit H).

Under date of September 19, 1936, response was made to General Superintendent Johnson's letter of September 4, 1936, by J. A. Horton, president, System Federation No. 47, successor to Esbenson in this capacity (Joint Exhibit I).

The enclosure mentioned in Mr. Horton's letter of September 19, 1936, (Joint Exhibit I) is included herewith and marked "Joint Exhibit I-1."

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 employees 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 Railway Labor Act (as approved June 21, 1934), among its many provisions, prescribes:

"General Purposes

"Sec. 2 * * * (4) to provide for the prompt and orderly settlement of all disputes concerning rates of pay, rules, or working conditions; (5) to provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, rules, or working conditions." Also:

"General Duties

"Second. All disputes between a carrier or carriers and its or their employes shall be considered, and, if possible, decided, with all expedition, in conference between representatives designated and authorized so to confer, respectively, by the carrier or carriers and by the employes thereof interested in the dispute."

This dispute was handled in accordance with the above provisions of the Amended Railway Labor Act and properly settled between the duly authorized representatives of the employes and the carrier, supported by an advance agreement on the part of Boilermaker Troxel to accept the findings of these representatives.

AWARD

The seniority date, February 10, 1936, of Boilermaker Troxel as established by agreement, is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 23rd day of March, 1937.