

Award No. 182

Docket No. 200

2-NP-BM-'37

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 7, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

NORTHERN PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Mr. D. S. Danks, boilermaker helper at Livingston, Montana, be removed from the position of cutter and burner and that Mr. Richard Hillard, boilermaker helper at Livingston, Montana, be assigned, and further that Mr. Hillard be paid the difference in rates of pay as provided for in the current agreement effective November 16, 1935, since the assignment of this position to Mr. Danks on grounds of improper awarding of bulletin position by management.

JOINT STATEMENT OF FACTS: On April 17, 1937, notice was posted at Livingston shops that applications for position of cutter and burner in the boiler department would be received. Applications for this position were made by D. S. Danks and Richard J. Hillard. Mr. Danks has a seniority date of March 31, 1924; Mr. Hillard has a seniority date of June 24, 1935. Mr. Danks was assigned to the position in question and took service on it on April 23. A copy of Mr. Hillard's application was furnished to the local chairman; a copy of Mr. Danks' application was not furnished to the local chairman.

On May 3, 1937, Local Chairman Roy E. Ricketts addressed a letter to Shop Superintendent Thomas Jackson protesting the assignment of Mr. Danks on the ground that Rule 17 had not been complied with as a copy of his application had not been furnished to the local chairman, and requesting that Mr. Hillard be assigned to the position.

POSITION OF EMPLOYEES: On April 17, 1937, notice was posted on bulletin board in the boiler department at Livingston, Montana, setting forth that a vacancy existed for the position of a cutter and burner, requesting applications from those desiring this position, as provided for in Rule 17. Boilermaker Helpers D. S. Danks and Richard Hillard made application for the bulletined position. Hillard, in addition to his application to the official in charge, furnished a copy to the local chairman of the boilermakers' committee in accordance with the provisions of Rule 17, whereas Mr. Danks did not furnish a copy of his application to the local chairman of the boilermakers' committee in addition to his application to the official in charge.

The committee contends that the failure of Mr. Danks to supply the local chairman of the boilermakers' committee with a copy of his application is cause to declare his (Danks) application null and void, thereby making him ineligible to the position that he has been assigned to by the management, because of non-compliance with the language and intent of the rule as written, which reads follows:

in pay as his seniority did not entitle him to the position, and he, therefore, suffered no loss of earnings to which he was entitled.

Rule 34 of the shop crafts' agreement has not been complied with. Mr. Danks took service on the position in question on April 23, 1937. On May 3, 1937, Local Chairman Ricketts wrote Shop Superintendent Jackson protesting the assignment of Mr. Danks. Copy of Mr. Ricketts' letter of May 3, 1937, is submitted as carrier's Exhibit A. On May 5, 1937, Mr. Jackson advised Mr. Ricketts that Rule 34 of the schedule had not been complied with. Under the provisions of Rule 34 the matter should have first been taken up with the boiler foreman, then with the general foreman, after which an appeal would be in order to the shop superintendent. This procedure was not followed. As Rule 34 was not complied with, Mr. Hillard's claim for loss of time has no standing under schedule rules, regardless of the provisions of Rule 17, which the employees have relied upon.

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.

Parties to said dispute were given notice of hearing thereon.

The record establishes the fact that all of the provisions of Rule 17 were not complied with at the time D. S. Danks was assigned to the position of cutter and burner.

AWARD

The position of cutter and burner, at Livingston, Montana, shall be re-bulletined in accordance with the provisions of Rule 17.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 28th day of October, 1937,