

**Award No. 314**  
**Docket No. 333**  
**2-CRI&P-CRI&G-CM-'39**

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**SECOND DIVISION**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'**  
**DEPARTMENT, A. F. OF L. (CARMEN)**

**CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY**

**CHICAGO, ROCK ISLAND & GULF RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** Should the seniority date of Carman Roy Cox be changed to June 16th, 1930, and Carman Hal W. Downs to January 3, 1928?

**JOINT STATEMENT OF FACTS:** Carman Roy Cox's seniority date on present roster is September 21, 1922, and Carman Hal W. Downs, October 10, 1922. They have been carried with these dates for a number of years.

**POSITION OF EMPLOYEES:** Roy Cox, carman, employed at Peoria, Illinois, repair tracks, entered the service of the carrier September 21, 1922, as a car painter and continued as a painter until June 16, 1930, when he was transferred from the painters' sub-division of carmen to the sub-division of car repairer.

Hal W. Downs, carman, also employed at Peoria, Illinois, repair tracks, entered the service of the carrier as a car repairer on October 10, 1922, transferring to the sub-division of painter February 5, 1923, and transferring back again to car repairer January 3, 1928, when he was evidently displaced in the painters' sub-division by Roy Cox who had been painter gang leader and was reduced to painter.

A transcript of the personal records of both employes follows:

PR 5163—Roy Cox	PR 6574 — Hal W. Downs
9-21-22 Car Painter — Peoria	10-10-22 Car Rep., Peoria
6- 1-23 Gang Leader PTR "	2- 5-23 Painter " .63
1- 3-28 Painter "	1- 3-28 Carman
10- 2-28 Loco. Ptr. "	1- 1-31 Car Insp.
10- 4-28 Painter "	1-19-34 Carman
10-21-29 Loco. Painter " .81	3-10-36 P. W. Chkr. (Temp.)
10-22-29 Painter " .73	4- 3-36 Asst. Car Foreman
6-16-30 Carman "	9- 8-36 Lead. Insp.
10-16-33 1st Cl. Carman "	9-28-36 Asst. Car Insp.
10-22-33 Carman "	10-29-36 Led. Car Insp.
	4-19-37 ARA Writeup
	4-22-37 Ld. Car Insp.
	9- 6-37 ARA Writeup
	4- 1-38 Lead Carman

Copy of this circular letter of January 4, 1933, was furnished System General President Smith under same date, and effective with the rosters of January 1, 1933, the notation as quoted above was shown on the first page of all seniority rosters.

Effective October 1, 1935, a new agreement for shop employes was entered into with the Railway Employes' Department, A. F. of L., and the last paragraph of Rule 30 reads as follows:

"The seniority lists will be prepared from the Railway's record on January 1st of each year and will be posted and open for inspection for a period of sixty (60) days. Copies of such lists will be submitted to the General Committee."

and it was agreed with the committee representing the A. F. of L. shopmen that the notation on seniority rosters, as mentioned above, would be changed to provide for a 60-day period in which to make protests, in line with Rule 30. This provision, establishing a 60-day, instead of 30-day period, has continued in effect, and the notation has appeared on all seniority rosters issued, first appearing on the roster of January 1, 1936. Proper rosters with such notation were posted each year at Peoria car department.

The first record of protest that the management received in connection with the seniority of these two employes was under date of March 17, 1938.

It is the management's position that since these two employes have been carried on the carmen's seniority roster at Peoria for many years without protest being made in the specified periods as provided in the agreements reached with the representatives of the employes, no change should now be made in their seniority dates or classification.

To change their dates or classification would be an injustice to them, as they have been working as carmen for a number of years and a change in their dates would have the effect of running around them many carmen who are junior to them in point of service.

There is no locomotive or passenger car painting work to be performed at Peoria. Therefore, the only painting to be performed by a carman-mechanic would be the stencilling of freight cars and, there being so little of this work to perform, it was reasonable for the employes to agree among themselves that the carmen would take care of the painting, but, unfortunately, some of them were carried under the title of painter instead of carman. At other small terminals where there is very little stencilling to do, the carmen take care of it.

Exhibit A, quoted in the Findings, shows the notification posted with seniority rosters. As the seniority rosters were posted in accordance with the agreement, and no protest made within 60 days, it is not now consistent to deprive Cox and Downs of the seniority dates established for them.

**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 submission contains the following Joint Statement of Facts:

"Carman Roy Cox's seniority date on present roster is September 21, 1922, and Carman Hal W. Downs, October 10, 1922. They have been carried with these dates for a number of years."

Rule 30 of the current agreement provides for seniority, its sub-division and manner of preparing seniority lists.

**"EXHIBIT A**

This list will be open to protest for a period of sixty (60) days from date of posting and correction of any error will be made. If no protest is made within the sixty (60) day limit, dates as posted will govern and will not be subject to change.

**ILLINOIS DIVISION  
PEORIA CAR DEPT.  
CARMEN—REVISED TO JANUARY 1st, 1936**

No.	Name	Occupation	Seniority Date	H. D. Date
1	Brandenburg, Harley A.	Carman	Sept. 18, 1922	
2	Cox, Raymond	Carman	Sept. 21, 1922	
3	Whittemore, Cecil G.	Car Inspector	Sept. 22, 1922	
4	Downs, William H.	Carman	Oct. 10, 1922	
5	Court, Fred J.	Piece Work Checker	Oct. 12, 1922	
6	Demas, George	Carman	Oct. 21, 1922	
7	Manker, Loy	Lay Out Man	Oct. 26, 1922	

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The record would indicate no change has been made in the seniority of the parties involved in subsequent postings. This Division does not find evidence of record that the seniority dates of the employees in question should be changed.

**AWARD**

No.

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division**

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 23rd day of February, 1939.