

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 102, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

BANGOR AND AROOSTOOK RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: L. F. Henderson should be compensated at machinist helpers' rate for each day John Lind worked as a machinist helper while he (L. F. Henderson) was furloughed.

L. F. Henderson should be compensated the difference between what he earned on any day he worked during the period he has been furloughed as a machinist helper and what was paid to John Lind for machinist helpers' work during that period.

EMPLOYEES' STATEMENT OF FACTS: There is an agreement in effect between System Federation No. 102, Railway Employees' Department, A. F. of L., and the Bangor and Aroostook Railroad.

Rule 28 reads as follows:

"Seniority.

Seniority of employes in each craft covered by this agreement shall be confined to the point employed in each of the following crafts:

Machinists
Boilermakers
Blacksmiths
Sheet Metal Workers

The seniority lists will be posted as of January 1st each year and will be open to inspection and copy furnished the Committee.

Seniority dates shall be considered permanently established if not protested in writing within sixty (60) days from date of second year posting, except error made in transcribing. When a change is to be made as a result of any such protest it shall be by mutual agreement with the local committee of the craft involved."

Rule 55 reads as follows:

"Machinist Helpers.

Helpers' work shall consist of helping machinists and apprentices, operating drill presses (plain drilling) and bolt threaders not using facing, boring or turning head or milling apparatus, wheel presses (on car, engine truck and tender truck wheels), nut tappers and facers, bolt pointing and centering machines, car brass boring machines, twist drill grinders, rough grinding, when not done to size; attending tool room, machinery oiling, locomotive oiling, box packing, applying and removing trailer and engine truck brasses, assist-

In 1937-38, Mr. Lind was available and competent to assist this engineer, and was assigned as a helper to him most of the time—and the same was true in 1938-39.

If Mr. Lind had not been assigned to this work, it would not have meant the employment of any additional helpers in the shop, but the necessary help would have been given by the helpers already there.

As is shown above, both of these men did practically the same kind of work—Mr. Lind has been in the service a little over five and a half years longer than Mr. Henderson; and, considering the work that each of them has done, it is the claim of the management that if either man had to be laid off, Mr. Henderson was the man and not Mr. Lind.

While each of them has served about the same length of time as a machinist's helper, Mr. Lind's excess service should be counted in deciding who would be employed.

When the agreement which was signed on October 18, 1938, was under discussion these special cases, such as repairs to maintenance of way equipment, etc., were mentioned and the committee agreed that there would be no trouble over these cases and that they would see that the matter was handled in a satisfactory way.

Both of these men were employed as all-around men, doing whatever work was needed at the time, and Mr. Lind's additional service with the company certainly entitles him to the first consideration when there is only work for one.

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 seniority roster posted January 1, 1939, subsequent to the effective date of the present agreement, shows L. F. Henderson as having machinist helpers' seniority from October 6, 1938. The name of John O. Lind does not appear on this roster. In view of this showing, therefore, Henderson must have prior rights as machinist helper.

The record shows that both Henderson and Lind were used in various capacities for a number of years due to a policy or practice agreeable to both management and employees. If because of such policy or practice, it now becomes necessary to make an adjustment of any individual employe's seniority standing, this should be done by proper conference and agreement by all parties involved. Apparently there is need of a clearer understanding as to the provisions and requirements of Rule 28 (seniority rule), in view of which, claim for compensation appears unwarranted.

AWARD

L. F. Henderson holds rights to machinist helpers' work over John O. Lind in accordance with the seniority roster published as of January 1, 1939. Claim for compensation denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 12th day of July, 1939.