

Award No. 446
Docket No. 438
2-CRI&P-CRI&G-CM-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

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

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

CHICAGO, ROCK ISLAND AND GULF RAILWAY

DISPUTE: CLAIM OF EMPLOYES: That James C. Boyle, carman, employed at Silvis, Illinois, is entitled to six (6) days' pay from April 10 to April 15, 1939, both days inclusive, account management violating Reduction in Force Rule 26.

EMPLOYES' STATEMENT OF FACTS: The 1939 seniority roster for the Silvis car department is as follows, beginning with:

73. Boyle, James C.	Feb. 12, 1934
74. Mack, Louis J.	Feb. 12, 1934
75. Alexander, Vaughn O.	Feb. 12, 1934

On or about April 5, James C. Boyle was notified he was to be laid off. Boyle was working on the car repair tracks, Mack was crane operator of the Brown Hoist at "Swamp Track" and Alexander was on the laid off list not working. On April 7, Boyle displaced Mack on the crane job where he worked until April 11, at which time he was given an investigation, disqualified and laid off.

The car foreman returned Alexander to service, placing him on the crane and using Mack from the date of his displacement, April 7, on work welding.

POSITION OF EMPLOYES: That Rule 26, third paragraph, which reads as follows, was violated:

"In the event of further reduction in expenses in department affected, forces will be reduced. When the force is reduced or jobs are abolished men affected will be privileged to place themselves according to their seniority. Seniority will govern in laying off men."

We contend further that under the language of this rule the junior man on the roster who was working at the time is the man who should have been notified he was to be cut off, and we place emphasis on the wording in the rule, "Seniority will govern in laying off men." Seniority is the right of the employe having the most years of service to remain at work over those

There is a direct admission that Mr. Boyle was not competent but he claimed to have the right to repeated effort to learn the work. The contract does not so provide.

The real position of the carmen is contained in a letter from Mr. Arrington, general chairman, to Mr. F. H. Frey, assistant to chief operating officer, dated August 21, 1939, reading in part as follows:

"Rule 17 of our Agreement provides that after thirty (30) days service, ability will be deemed sufficient and seniority shall govern for applicants to new jobs or vacancies and in other words this means that after an employe is in the service thirty (30) days he is recognized as competent to perform the work specified in the carmen's craft and it likewise naturally follows that when reduction of forces takes place and displacements are made, that those employes who designate their position desirous to them by displacing a junior employe, are likewise recognized as having sufficient ability and seniority governs."

The real position is that if a carman works thirty days doing any kind of the work done by carmen, the carrier must allow, and continue to allow, that carman to attempt to do other work even if he is grossly incompetent. Stated bluntly, the position is that by working thirty days a carman gets a job for life and can never be let out or disqualified for incompetence, however gross. This just can't be true.

Claim should be denied.

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 were given due notice of hearing thereon.

The method of reducing forces in accordance with seniority provided in current agreement Rule 26, "* * * seniority will govern in laying off men * * *", is that the junior men are to be furloughed and senior men retained in the service and is similar to the principle involved in this Division's Awards 40 and 183.

Where there is a question of filling certain positions from which junior men are furloughed, it becomes a matter of negotiation between the parties to the agreement. The record does not contain proof of wage loss.

AWARD

The procedure followed in furloughing J. C. Boyle was improper; therefore, if there has been any monetary loss sustained by him the matter will be adjusted between both parties to the dispute.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 28th day of March, 1940.