

Award No. 450  
Docket No. 448  
2-NYNH&H-CM-'40

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION No. 17, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. (CARMEN)**

**THE NEW YORK, NEW HAVEN AND HARTFORD  
RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** Request that James Potts, furloughed carman from the Hartford seniority district, be compensated in the amount of \$68.80 by reason of not having been employed at Van Nest shop during a ten-day period in the early part of May, 1938. Violation of schedule Rule 26 alleged.

**JOINT STATEMENT OF FACTS:** Mr. Potts has a roster rating of a carman at Hartford and at the time of this claim had been laid off at that point. In the latter part of April, 1938, additional men were needed at Van Nest. There were no furloughed men at that point subject to recall. Advice was given that there were furloughed men at Hartford desirous of obtaining employment as the opportunity offered at other points and that Potts was included in this number. Inquiry was made of Hartford concerning Potts, and advice given that he was not available and one James Rutherford who had worked at Van Nest as a carpenter for a few months in 1934 was re-employed in that capacity at Van Nest on May 17, 1938. Subsequent to this, another carpenter was needed at Van Nest and inquiry was again made concerning Potts. He was employed at Van Nest on May 31, 1938, continuing to September 8, 1938, when he was recalled to Hartford in line with his seniority status at that point and is still there.

**POSITION OF EMPLOYEES:** Rule 26 of the current agreement has been violated, which reads:

"Furloughed men laid off in force reduction will be given privilege of transferring to other points when men are needed. Men desiring to avail themselves of this privilege will make their desires known and will state their preference as to the point or points at which they wish consideration. They will be permitted to return to home station when force is increased, such transfer to be made without expense to the Company.

In case more than one man at a point files notice of a desire to transfer under this rule, the senior man will be given preference."

We contend that when employes who are furloughed and make their desires known to the management of transferring to other points when they are needed, and stating the point at which they want preference, that they (employes) have complied with the agreement. If men are needed at other

**Exhibit "D"**—letter of July 21, 1939 from General Chairman Schiffer of the International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America.

**Exhibit "E"**—another letter from General Chairman Dennehy of the Sheet Metal Workers' International Association, dated October 26, 1939.

With respect to Exhibit "A" it will be noted that the name of J. Rutherford is listed. This is the same man to whose employment the committee has objected in lieu of Potts, the claimant in this case.

These exhibits are only a few of the many letters that have been received from the various general chairmen and under which we are endeavoring, through the Employment Section of Mr. Perry's office, to give consideration to the desires of furloughed employes.

We have had only one previous case of this nature on this property and which, as it happened, involved one W. E. Burbridge, now deceased, and who was a predecessor of Mr. Sheehan as secretary-treasurer of System Federation No. 17. At the time of his claim he was furloughed from Readville shop and made claim for lost pay because he was not given preferential consideration for employment at New Haven, Conn., an entirely separate seniority district 150 miles distant. Following the handling of the dispute with him, he addressed a letter to the superintendent of shops at Readville, reading:

"After giving this matter more consideration and after making further inquiry, I find my claim is without foundation, therefore I wish to withdraw same."

As to the specific claim of Potts, the carrier repeats its assertion that Potts, as a furloughed man from the Hartford seniority district, had no preferential rights for employment at Van Nest and that consequently he is not entitled to pay for services which he did not perform.

**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 crux of this case turns to the question of whether Carman James Potts was available and given a call for the work at Van Nest.

A joint check was submitted by the parties upon request of the Second Division, the reply to which clearly indicated that no attempt was made to call Carman Potts for the position at Van Nest; this in the face of the fact that a Joint Statement of Facts presented in this case shows that management had previously been advised that Carman Potts was desirous of obtaining employment at Van Nest as the opportunity presented itself.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 30th day of April, 1940.