

**Award No. 494**

**Docket No. 483**

**2-CI&L-CM-'40**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 32, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. (CARMEN)**

**CHICAGO, INDIANAPOLIS & LOUISVILLE RAILWAY**

**DISPUTE: CLAIM OF EMPLOYEES:** That Luther E. Gilliatt be restored to service at Gosport, Indiana, and paid for all time lost at the rate of 78¢ per hour, eight (8) hours per day, and six (6) days per week, from April 14, 1939, until restored to service on account of being furloughed April 14, 1939, in violation of Rules 30, 26, and paragraph B of the miscellaneous rule, page 24 of current agreement, also, violation of Section VI of the Railway Labor Act, the violation being the assignment of carmen from other seniority points to do the work formerly performed by Gilliatt.

**EMPLOYEES' STATEMENT OF FACTS:** Luther E. Gilliatt was regularly employed as a carman at Gosport, Indiana, since October 5, 1922; his duties consisted of inspecting all cars and making all necessary repairs to cars at his station, also inspecting and making necessary repairs to all cars set out for defects from Gosport to Ellettsville, a distance of about ten miles south of Gosport. The above mentioned territory includes a part of the Oolitic stone belt where various stone quarries and mills are located. His duties also included the inspecting, repairing, and servicing of all cars set for loading in this stone belt territory.

Under date of April 8, 1939, Luther E. Gilliatt received a notice from the master mechanic, advising him that at the close of his work day on April 14, 1939, he would be laid off indefinitely in a reduction in force; also, for him to leave all keys to buildings with the agent at Gosport. (See Exhibit A)

**POSITION OF EMPLOYEES:** We contend in this case that the seniority rules would be violated inasmuch as the master mechanic issued a letter of instructions to his supervisory forces at the various points, under date of April 11, 1939, advising them that other carmen than Gilliatt would be assigned to do any necessary car work at Gosport and in the territory formerly covered by Gilliatt.

Rule 30 of our federated agreement only provides for point seniority for carmen and reads as follows:

**"RULE 30.** Seniority of employes in each craft covered by this agreement shall be confined to the point employed in each of the following departments:

Maintenance of Way (bridge and building where separate from  
Maintenance of Way Department.)  
Maintenance of Equipment.

The carrier submits:

1. There has been no violation of Rules 26, 30 or paragraph B of miscellaneous rule, page 24, of current agreement.
2. There has been no violation of Section 6 of the Railway Labor Act.
3. Position was discontinued in accordance with the terms of the agreement, and in the same manner as in prior years.
4. The present method of performing the work does not constitute a violation of the agreement.
5. An award should be rendered in favor of the carrier.

**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.

Car Inspector Luther E. Gilliatt was properly furloughed, but his furlough did not destroy his seniority rights. When the work requirements of a seniority point or assignment have decreased to the extent that the services of even one employe are not required full time, the agreement permits negotiation to protect the interests of the respective parties and prevents any arbitrary change.

The Division is of the opinion that each of the parties should respect the rights of the other and that an equitable disposition can be made by the representatives of the parties. The Division remands this question to the parties directing that they make an earnest effort to effect an equitable adjustment of the dispute.

#### AWARD

Claim remanded without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 31st day of July, 1940.