

Award No. 495

Docket No. 484

2-CI&L-CM-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

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

CHICAGO. INDIANAPOLIS AND LOUISVILLE RAILWAY

DISPUTE: CLAIM OF EMPLOYES: That John E. Leonard be restored to service at Orleans, Indiana, and paid for all time lost at the rate of seventy-eight cents (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 miscellaneous rule, page 24 of the current agreement, also violation of Section VI of the Railway Labor Act; the violation being assignment of carmen from other seniority points to do the work formerly performed by Leonard.

EMPLOYES' STATEMENT OF FACTS: John E. Leonard was regularly employed as a carman at Orleans, Indiana, since January 23, 1923. His duties consisted of inspecting and making necessary repairs to all cars at Orleans, also inspecting and making necessary repairs to all cars set out for defects, from Orleans to Paoli, Indiana, inclusive, a distance of about ten miles southwest from Orleans; also inspecting and making repairs to all cars set out of trains for defects, from Orleans to Salem, Indiana, inclusive, a distance of about twenty-eight miles southeast from Orleans, Indiana. However, Orleans, Indiana, was his headquarters and seniority point; this place has been a seniority point for carmen since January, 1923. His duties also consisted of inspecting, cleaning, repairing and servicing all cars set for re-loading by the shippers in his territory. The servicing of cars consisted of cleaning cars, removing all blocking or other obstructions left in the cars by previous shippers, removing all unnecessary nails from floors, walls and doors of cars. In fact, putting the cars in first-class condition to be re-loaded.

Under date of April 8, 1939, John E. Leonard received 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 Orleans. (See Exhibit A)

POSITION OF EMPLOYES: We contend in this case that the seniority rules of our federated agreement have been 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 Leonard would be assigned to do any necessary car work at Orleans, and in the territory formerly covered by Leonard, even assigning carmen from another railroad to do the carmen's work at Salem, Indiana, which was formerly done by Leonard. (See Exhibit B)

2. There has been no violation of Section VI 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 John E. Leonard 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.