

Award No. 510

Docket No. 567

2-IC-FO-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FIREMEN AND OILERS)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That the seniority dates in Class B of Messrs. C. M. Lewis (now shown August 3, 1936), and T. B. Edwards (now shown September 21, 1936), on the roster at Paducah back shop, Paducah, Kentucky, be changed to read: C. M. Lewis—June 15, 1935; and T. B. Edwards—February 17, 1936, and such wage losses as were incurred by the above named account of assignment to lower rated positions beginning June 15, 1935, and February 17, 1936, respectively.

JOINT STATEMENT OF FACTS: C. M. Lewis was assigned, in part, to cleaning locomotives and blackening fireboxes, beginning June 15, 1935. When Lewis was assigned to other duties February 17, 1936, T. B. Edwards was assigned in part to cleaning locomotives and blackening fireboxes.

POSITION OF EMPLOYEES: As stated in the joint statement of facts C. M. Lewis was assigned to clean locomotives and blacken front ends and fireboxes, in part, beginning June 15, 1935. As further stated in the joint statement of facts, T. B. Edwards was assigned to clean locomotives and blacken front ends and fireboxes when C. M. Lewis was assigned to other duties.

Engine washers, engine wipers, and front end and firebox blackers are classifications in Class B (formerly Class C which was changed by negotiation without the disturbance of any classification).

The practice in effect regarding the establishment of seniority in Classes "A," "B" or "C" prior to November 1, 1937, was that the actual performance of work in either of the three mentioned classes established seniority therein under the provisions of Rule 16, which reads:

"RULE 16

Seniority begins at the time the employe's pay starts."

Rule 16 was interpreted November 1, 1937, however, there was no agreement that such interpretation should apply retroactively. The interpretation to Rule 16 reads as follows:

"INTERPRETATION TO RULE 16

- (a) Seniority of employes in Class A or B shall begin when pay starts after assignment as per rule 25 by bulletin and interpretation thereto.

Carrier contends no rule in the existing schedule has been violated and requests that the claim 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 waived right of appearance at hearing thereon.

C. M. Lewis was assigned to cleaning locomotives and blacking fire boxes June 15, 1935, and continued thereon until February 17, 1936, on which date T. B. Edwards was assigned to the same duties.

Front ends and fire box blackers carried seniority in Class C, while laborers were carried in Class D. While the work of fire box blackers did not constitute all of their work, they were performing this work in connection with other duties regularly; under the circumstances surrounding the situation in this case they should have Class C seniority.

There is nothing in the record to show any loss of wages.

AWARD

C. M. Lewis to be given seniority date of June 15, 1935; T. B. Edwards to be given seniority date of February 17, 1936, in Class C of Rule 18 of agreement effective April 1, 1935.

Claim for wage loss denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 10th day of October, 1940.