

**Award No. 570**

**Docket No. 607**

**2-GN-EW-'41**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)**

**GREAT NORTHERN RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** That William Dale, at present employed as regular electrician apprentice, be removed from this position and vacancy shall be bulletined in accordance with Rule 12, Section B, because of violation of Rule 31, Section A, of current shop craft agreement, effective September 1, 1937.

**EMPLOYEES' STATEMENT OF FACTS:** On July 22, William Dale was hired as electrician apprentice. The carrier did not make any effort to allow electrician helpers to bid for position in accordance with Rule 12, (b) which reads as follows:

"\* \* \* All new positions and vacancies of thirty (30) days or more shall be bulletined for a period of five (5) days before being permanently filled.\* \* \*"

**POSITION OF EMPLOYEES:** That Rule 12, (b) provides that,

"\* \* \* All new positions and vacancies of thirty (30) days or more shall be bulletined for a period of five (5) days before being permanently filled. \* \* \*"

The carrier contends that in accordance with instructions sent out in letter of January 9, 1940, from Mr. J. C. Rankine, assistant to vice president, addressed to all superintendents and superintendents of shops, that the procedure in this letter of instruction which reads as in part:

"\* \* \* it was necessary some years ago to agree with the organization that employees or employees' sons desiring consideration must file applications indicating such desire, and that when such appointments were to be made, such applications would be considered in the order in which they had been filed.

Present representatives of the employees claim such methods of handling has not been understood by many of the employees, and ask that attention be called to it.

The railway company never has agreed that such positions would be bulletined to employees, nor that any specific individual employee would be appointed thereto on the basis of seniority. However, we did agree that in considering placement of apprentices, we would give consideration to applications on file in the order they were received, as above noted."

hour. His application was on file, no other applications were on file, and he was transferred in strict accordance with schedule Rule 31 (i).

It is the position of the Carrier, therefore, that W. H. Dale was assigned as regular apprentice strictly in accordance with schedule Rules 31 (i) and 29, and the established practices thereunder; that Rule 12 has no bearing on the case, as evidenced by the request of employes for a change in practice to bring apprenticeships under Rule 12 in the future; that this Board has no authority to order a negotiable change in application and practice; and that such change, even if negotiated, could not be made retroactively to affect employes already established. The carrier requests this Board to so hold.

**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.

In this dispute, the Division is required to define the intent of Rule 12 (b), and Rule 31 (a), in the light of the facts of record.

This Division does not find that Rule 12 (b) requires the management to bulletin apprentice positions.

Rule 31: “\* \* \* shall, so far as possible, be equally divided between apprentices and helper apprentices. \* \* \*”

The evidence shows there were employes in the service with qualifications to meet the requirements for helper apprentices and the carrier chose to put on a regular apprentice in conflict with provisions of Rule 31 (a); therefore, this Division finds that it was not proper to employ William Dale as a regular apprentice.

#### AWARD

William Dale shall be removed from the position of regular apprentice.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 17th day of February, 1941.