

Award No. 637

Docket No. 598

2-T&P-CM-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee John P. Devaney when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 121, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

THE TEXAS AND PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: That Hoots, Texas, is an outlying point; that a carman should have been assigned to work there; that the job when created should have been bulletined; that a furloughed carman shall be compensated for all time a helper has worked at Hoots; that the oldest furloughed helper at Texarkana shall be compensated for all the time a junior helper has worked at Hoots.

EMPLOYES' STATEMENT OF FACTS: Hoots, Texas, is a point eight miles west of Texarkana, Texas, on the main line of the Texas and Pacific Railway, and is not in the yard limits of Texarkana. Train crews on the main line pick up and set out cars at this point. About May 22, 1939, R. Miller, the oldest furloughed carman helper at Texarkana was assigned to a newly created job at Hoots. The job was not bulletined. Miller worked this job for twenty-nine days or until a job of oiling in the yards at Texarkana was bulletined and bid in by Miller. H. L. Peacock, a junior furloughed carman helper was then sent to Hoots. Soon the oiling job that Miller bid in was pulled off and Car Foreman Wood would not permit Miller to displace Peacock at Hoots, causing Miller to lose time while Peacock, a junior helper, continued to work.

POSITION OF EMPLOYES: That Hoots, Texas, is an outlying point due to the fact that it is outside the yard limits of Texarkana, Texas, eight miles; further, none but a carman should be assigned to work at outside or one-man points, as per Rule 87:

A "One-Man" point is an outlying point where there is employed one carman day, and one night, or where there is only one carman employed. Carmen stationed at one-man points shall be paid by the hour and under the rules governing running repair forces, except for the eight (8) hours constituting a day's work may be worked within a spread of twelve (12) consecutive hours.

No men of the carmen's craft have ever worked at Hoots previous to this; therefore, no carmen were furloughed or held seniority at Hoots. Therefore, the agreement was violated when the job was not bulletined at points where carmen were furloughed and the oldest carman assigned who bid on the job. Rule 10 reads:

When new jobs are created or vacancies occur in the respective crafts the oldest employes in point of service shall, if sufficient ability

We are submitting correspondence in connection with this case as Exhibit B. Would call the Board's attention to the prompt handling given this case by the carrier and the lapse of time given it by the carman's general chairman. Particular attention is directed to former Assistant Vice President Tobin's letter to General Chairman Nichols of April 19, 1940, which we feel clearly shows that Rules 10 and 87 on which committee relied were in no manner violated.

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.

Substantially all the work at Hoots is helpers' work. The agreement does not contemplate or require maintenance of a carman under such facts. Seniority rights of men at Texarkana seniority point have not been violated. Bulletin was not mandatory when the position was assigned but pursuant to the agreement subsequently executed, future vacancies should be bulletined.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 26th day of June, 1941.