

Award No. 644
Docket No. 659
2-D&RGW-CM-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 10, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

**THE DENVER AND RIO GRANDE WESTERN
RAIROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That the employment of Laborer P. F. Brunhober in the capacity of carman in the Burnham shops (Denver) on April 12, 1941, is a violation of Rules 28 and 91 of the current agreement, effective September 1, 1940, and request that an order be issued for the carrier to remove Laborer P. F. Brunhober from carman's work and discontinue the practice.

EMPLOYEES' STATEMENT OF FACTS: On April 12, 1941, P. F. Brunhober, a regular employed laborer, was promoted to position of carman in the Burnham shops, (Denver) without consulting with the organization.

P. F. Brunhober's personal record will show as follows:

Pennsylvania Railroad Pendleton Shops, Cincinnati, Ohio.

9-16-1919—Engine Preparer
1- 6-1922—Dismissed
9-19-1922—Employed as Car Attendant
11-16-1922—Engine Preparer
1- 1-1923—Transferred to Machinist Helper
7-28-1924—Resigned

Denver & Salt Lake Railway Company, Utah Junction, (Denver)

10-10-25 to 10- 1-27—Car Repairer Helper
10- 1-27 to 11-27-27—Car Repairer
11-27-27 to 2-13-28—Loco. Fireman, on line
9-13-28 to 10- 2-28—Step Rate Car Repairer
10- 2-28 to 4-18-30—Car Repairer Helper

Denver & Rio Grande Western R. R. Burnham Shop (Denver)

4- 1-37 to 10- 1-37—Carman
10- 8-37 to 10-20-37—Carman, laid off
8-22-39—relinquished his rights as carman to accept position of laborer as per company ruling at that time.
4-12-41—Change of occupation from laborer to carman.

CARRIER'S STATEMENT OF FACTS: April 12, 1941, P. F. Brunhober who had been employed as shop laborer at our Burnham (Denver) shops was promoted to carman. Request of the committee that Mr. Brunhober be removed from service as a carman was denied by the management.

POSITION OF EMPLOYEES: The following rules are contained in the agreement between the parties to the dispute, effective September 1, 1940.

The carrier holds by reason of the fact no protest was made during the years 1937, 1938, and 1939, with respect to Brunhober's qualifications, there is no good reason why this protest should now be made. The same organization represented the carmen on this property during that period that now represents them.

The carrier contends had its rules not required Brunhober to resign as a carman in order to work and make a living in another class of service, this case would never have been presented, and further contends in view of all the circumstances surrounding, the claim of the employes should 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 were given due notice of hearing thereon.

There was no agreement between the parties for the employment of carmen not having the qualifications provided for within the provisions of Rule 91 of the agreement, nor does the record show Brunhober having the qualifications provided for in the aforesaid rule.

AWARD

Brunhober shall be removed from employment as a carman at Burnham shops, unless he is able to show proof of having served his apprenticeship or having had four years' practical experience at carmen's work, as required under Rule 91.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 3rd day of September, 1941.