

Award No. 669

Docket No. 651

2-T&P-CM-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman 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 EMPLOYEES: That W. R. Hunnicutt be restored to the position he bid in, which bulletin expired at 5:00 P. M., May 1, 1940, to the seniority rights established as of December 21, 1926, at Texarkana, Texas, and be compensated for the loss of wages suffered since he was demoted from a car inspector to a carman helper on May 11, 1940, under provisions of Rule 10, Rule 18 (c), Rule 20 (e), and Rule 22 (d), and Rule 12 of current agreement effective April 1, 1937.

EMPLOYEES' STATEMENT OF FACTS: Carman W. R. Hunnicutt, was transferred from Denison, Texas to Texarkana, Tex-Ark, as a carman effective December 21, 1926 where he was at first employed as a car repairer for a period of sixty days and was then assigned to duties of car inspector in Texarkana train yards and continued as such until laid off in accordance with his seniority in force reduction on March 12, 1931. While laid off as car inspector at Texarkana, Hunnicutt, was offered temporary employment at Longview, Texas, in the capacity of carman helper, which he accepted and entered service as such at Longview on April 3, 1933. On April 17, 1940, car force at Texarkana, was again increased and Hunnicutt was called back there in accordance with his seniority standing as a carman, and was assigned again to his former standing as car inspector in Texarkana train yard. In order that there be no dispute or complaint from other carmen, the position of inspectors' assignments were bulletined, and no carman senior to Hunnicutt offered any objection. Hunnicutt, was informed that his assignment to position he had left through force reduction was reaffirmed. Hunnicutt's assignment as car inspector was on a seven day per week basis and he continued in service for a period of twenty-two days. He was notified by his foreman, Mr. V. D. Wood, that his service as a car inspector was not satisfactory and that he had better return to Longview as a carman helper before his thirty days' limitation expired, and he would thereafter be unable to resume the work of helper at Longview. Mr. Wood at the same time informed Hunnicutt that if he insisted on remaining at Texarkana, he would subject him to an examination for inspectors that would disqualify him, and then he would be out of service at both Texarkana and Longview, and have no rights at either point. There was no younger carman in service at Texarkana than Hunnicutt, and therefore he could not exercise his rights to work as a car repairer there, so he returned to Longview as instructed,

We stated to you that the charges made by former General Chairman Nichols in his letter are rather serious—that he was being continually harassed by the foreman and threatened with being discharged and was coerced, etc.

You being located at Texarkana, the point of the occurrence, in service at that point in the car department, we asked you if you had anything to substantiate Mr. Nichols' letter and you stated that you did not, that you had heard of no harassing or coercion other than talk and that there was nothing to support such a statement."
(Emphasis ours.)

In view of the above, we cannot agree that Hunnicutt should now have his rights restored as carman at Texarkana and be paid the difference between what he earned as carman helper at Longview and what he would have earned as car inspector at Texarkana. If this were done, the men that relinquished their rights at Fort Worth, as shown above, would have just complaint in requesting at any time in the future that they be permitted to return to Fort Worth as carmen, if at any time they were furloughed at Dallas or Texarkana. This is not in keeping with rules in effect with System Federation No. 121. Mr. Hunnicutt gave this position up of his own accord and there was nothing the carrier could do but allow his request.

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.

The evidence of record does not support the contention that W. R. Hunnicutt was removed from his position of car inspector at Texarkana or compelled to transfer to Longview as a carman helper. There is no basis, therefore, for the request that he be restored to service at Texarkana, with seniority rights at that point unimpaired, or that he be compensated for loss of wages.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 4th day of December, 1941.