

Award No. 842

Docket No. 781

2-B&M-FT-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)**

BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYEES: That Elmer Basley must be assigned to position of boilermaker-welder at Billerica locomotive shop instead of Peter Reardon.

That Elmer Basley must be paid the difference between what he received and what he would have received had he been assigned to the position in question.

EMPLOYEES' STATEMENT OF FACTS: On August 4, 1941, position of boilermaker-welder was bulletined at Billerica locomotive shop, rate 91 cents per hour. Application for the position was made by Peter Reardon, seniority rating as machinist-welder from February 23, 1926 and from Elmer W. Basley, seniority rating as a boilermaker from February 6, 1924.

The position was assigned on August 11, 1941 to Peter Reardon.

Reardon's name is on the machinists' roster and also on separate roster covering welders.

Basley's name is on the boilermaker's roster, only.

Protest was advanced to management and carried to the highest officer of the carrier designated for the handling of such disputes and the management refused to make an adjustment.

The dispute is now properly before the Second Division of the National Railroad Adjustment Board.

POSITION OF EMPLOYEES: There is submitted as employees' Exhibit 1, copy of memorandum which became effective December 1, 1939, showing that the rights of men who had formerly been on the welder's roster would thereafter be as welding work and craft work, as well as outlining what the rights of craftsmen who had not previously been on the welders' roster be as to welding work.

At no point in the memorandum (Exhibit No. 1) is preference given to employees who were formerly on the welders' roster. It is the intent of Section 1 that welders who have been placed on craft rosters will not have the right to displace other mechanics on the same roster nor will other mechanics on the same roster have a right to displace said welders. It is admitted, however, that the language of the section will give preferential rights to welders on the craft roster for strictly welding positions put up for bid in the craft.

Section 3 provides that, in reduction in force or abolishment of positions, welders shall have displacement rights only over each other and not over other mechanics on the same roster. It also provides that welders shall have

We wish to emphasize that Reardon's name was on the welders' roster while Basley's name was not on the welders' roster prior to the agreement of December 1, 1939 and that in allocating those men who were on the welders' roster to the different crafts, we allowed the general chairmen of the crafts to place the men on whichever seniority list they desired to and they placed Reardon's name on the machinists' roster in the final set-up, altho at one time he had been on the boilermakers' roster during the conferences and in any event he had been performing boiler welding for several years and is a skilled workman in that particular field.

We also desire to impress the members of the Board with the fact that Basley had not been on the welders' roster but had been on the boilermakers' roster right along.

Article 2 of the agreement of December 1, 1939 plainly says that other employes on the same roster will not be accorded rights over the welders placed thereon for welders' work.

The welders are restricted from bidding or displacing on any jobs but those for welders and the other employes on the same roster are likewise restricted from bidding or displacing on welders' jobs.

Article 3 of the agreement of December 1, 1939 restricts the displacement rights of a welder where more than one is placed on the same craft roster and also provides that nothing in Section 3 or elsewhere would deprive employes who had been on the welders' roster from bidding for any vacancy or new position where the work is strictly that of a welder and that is what the position was that Reardon bid for.

If there had been no bid for this job posted August 4, 1941 from Reardon or any other employe who had previously been on the welders' roster, then the senior boilermaker who bids would have been awarded the job under Section 4 of the agreement of December 1, 1939 but Section 4 does not nullify the provisions of Sections 2 or 3 heretofore referred to.

As carrier's Exhibit No. 2 we submit statement of earnings of Peter Reardon and Elmer Basley by weeks from the week ending August 14, 1941 to the week ending June 4, 1942.

However, as shown in statement of facts, Basley did not suffer any loss of earnings as Reardon did not go on job bulletined August 4, 1941.

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.

The memorandum of understanding of November 1, 1939 (4), reads:

"Any new jobs or vacancies as welders which occur shall be posted for bid in the craft in which the new job or vacancy occurs and every effort will be made to have same filled by an employe of the craft at the point, who will, after assignment to such new position or vacancy, retain all roster rights."

The position bulletined was that of boilermaker welder and Basley was the senior bidder within his craft. The evidence of record indicates that the bulletined position was not assigned to anyone.

This Division decides that if the new position had been filled, Boilermaker Basley should have been assigned to it.

AWARD

Claim sustained to the extent indicated in the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 14th day of October, 1942.