

Award No. 915

Docket No. 846

2-PT-CM-'43

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Herbert B. Rudolph when award was rendered.

PARTIES TO DISPUTE:

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

PORTLAND TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That on and since January 26, 1941, the carrier persists in violating the controlling agreement and Rules 22 and 21 thereof by arbitrary assignment of Carman Helper E. E. Roberts to the place of—

(a) Carman A. Tibbetts on the 8 A. M. shift, January 26, 1941.

(b) Carman J. Gilikson on the 12 Midnight shift, January 27, 1941.

That in consideration of the aforesaid violations, eight hours at the rate and one-half be paid to—

(a) Carman Joseph Lapierre on the 12 Midnight to 8 A. M. shift.

(b) Carman Francis Curran on the 4 P. M. to 12 Midnight shift.

EMPLOYEES' STATEMENT OF FACTS: At Rigby car shop the carrier maintains three shifts of carmen.

Carman A. Tibbetts was regularly employed on the 8 A. M. to 4 P. M. shift, seven days a week; Sunday, January 26, 1941, he was off.

Carman J. Gilikson was regularly employed on the 12 Midnight to 8 A. M. shift, six days a week; Monday, January 27, 1941, he was off.

Carman Helper E. E. Roberts as such was regularly employed on the 8 A. M. to 4 P. M. shift, six days a week.

On January 26, 1941, Helper Roberts was assigned to work in the place of Carman A. Tibbetts. On January 27, 1941, Helper Roberts was assigned to work in the place of Carman J. Gilikson.

POSITION OF EMPLOYEES: The employes contend that the management violated Rules 7, 21 and 22 when they assigned Carmen Helper E. E. Roberts to cover a carman's vacancy for one day caused by A. Tibbetts reporting off for one day, January 26, 1941, and when they assigned Carmen Helper E. E. Roberts to cover a carman's vacancy for one day caused by J. Gilikson reporting off for one day, January 27, 1941.

Desire to discuss this matter as soon as possible.

Copy of the above quoted letter submitted as Exhibit B.

In this respect the example of necessity was only illustrative; whether it be for one day or a week the agreement should apply.

On April 19, 1939, the carmen, their helpers and apprentices in the employ of the Portland Terminal Company elected to affiliate with System Federation No. 18, Railway Employees Department, American Federation of Labor, rather than continue their affiliation with System Federation No. 80, Railway Employees Department, American Federation of Labor. They, however, continued to be covered by the provisions of the agreement effective August 19, 1937, and the agreed interpretations thereof, above referred to.

Such a change in affiliation is purely an organization matter and simply entails the retirement of one system and its officers in favor of the new system and its officers, and, the **organization involved being the same, should not, in any sense, disturb the existing rules or interpretations agreed to between the parties.**

It is due to this change in affiliation, however, that this case is now before your Board, as the carrier and the former representatives of the carmen, have been, since the effective date of the agreement (August 19, 1937), and still are, to the best of our knowledge, in agreement that **temporary or day to day** carmen's vacancies, where no furloughed men of the class available, be filled by the promotion of qualified helpers.

In addition to the findings of your Board given in Award 652, given with the assistance of a referee, your attention is directed to Award No. 558 of your respective Division—Referee Wm. E. Helander participating—(System Federation No. 130, Railway Employees' Dept., A. F. of L. vs. Baltimore & Ohio Chicago Terminal R.R.) which found that the employment of furloughed men to fill the places of regularly assigned employees who laid off, that is day to day vacancies, was proper.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Case No. 5, agreed to April 5, 1938, governs this dispute. The facts of record bring this dispute within the intent and purpose of Case No. 5, which was clearly intended to govern the filling of temporary vacancies of less than thirty (30) days duration where no laid off qualified employee is available. See Award 652.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of June, 1943.