

Award No. 937

Docket No. 887

2-KCT-FO-'43

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 38, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (FIREMEN & OILERS)**

THE KANSAS CITY TERMINAL RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: That the carrier is arbitrarily retaining on the seniority roster covered by the Firemen and Oilers' Agreement the hereinafter named who sought and are holding regular positions under the Locomotive Firemen and Enginemen's Agreement.

That in consideration of the aforesaid arbitrary action, the carrier be ordered to strike the following names from the seniority rosters provided for in Rules 1 and 18 of the Firemen and Oilers' Agreement, effective April 6, 1939.

H. E. Baker
C. E. Oberg
C. E. Albertson

A. J. Dishman
L. R. Carter
G. D. Morrison

EMPLOYEES' STATEMENT OF FACTS: The carrier maintains seniority dates of the following under the firemen and oilers and the locomotive firemen and enginemen's agreements as set forth to the right of their names:

Names	Seniority Date	Seniority Date
	Firemen and Oilers' Agreement	Locomotive Firemen and Enginemen
H. E. Baker.....	8-22-1917.....	11-16-1939
C. E. Oberg.....	10-10-1927.....	2-27-1939
C. E. Albertson.....	1-21-1937.....	12-23-1939
A. J. Dishman.....	10- 5-1937.....	12-31-1939
L. R. Carter.....	1-20-1940.....	12-18-1940
G. D. Morrison	6- 4-1937.....	6-20-1941

The aforesaid have regularly and continuously worked under the scope of the locomotive firemen and enginemen's agreement since the effective date of their seniority thereunder.

POSITION OF EMPLOYEES: It is contended that an employee can not legally hold seniority in two (2) or more crafts represented by two (2) different organizations through separate agreements, unless mutual understandings have been arrived at by the organizations involved.

It is further contended that the above-mentioned men having accepted promotion to firemen, in a class represented by agreement by the Brotherhood of Locomotive Firemen and Enginemen, no longer have an employment relationship with the Kansas City Terminal Railway Company, IN THE FIREMEN AND OILERS' CRAFT.

Rules 18, 19 and 20 of the agreement dated April 6, 1939, govern seniority of employees while working in the firemen and oilers craft.

POSITION OF CARRIER: It is the carrier's position that it has not "arbitrarily" retained the names of Baker, Higman, Oberg, Albertson, Morrison, Dishman and Carter on the seniority rosters of pit hostler helpers or laborers, but has retained their names on those rosters because there is no agreement between the International Brotherhood of Firemen and Oilers, the Brotherhood of Locomotive Firemen and Enginemen and the Kansas City Terminal Railway Company which covers the seniority status of employees who might transfer from the jurisdiction of one group to the other. In the absence of such an agreement, the carrier feels that for its own protection and to avoid any involvement with the employees affected, it cannot remove these employees from the firemen and oilers' seniority rosters unless and until it is ordered to so remove them by authoritative order from your Honorable Board.

The above facts stated in this submission and the position of the carrier have already been made known to the employees.

The carrier desires to call attention to the fact that the statement of claim, as written by the employees in this case, is not entirely correct. The name "H. E. Backer" should be "H. E. Baker"; the name "C. D. Morrison" should be "G. D. Morrison"; the name of R. R. Higman, who is presently working under the firemen and enginemen's agreement but who also retains seniority under the firemen and oilers' agreement, has been omitted from the employees' statement of claim and should be included therein as he is in the same category.

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 waived right of appearance at hearing thereon.

Rule 1 of the current agreement, International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers, involved in the instant case, designates the classes of employees who may be shown on the seniority roster, as provided for in Rule 18 of same agreement; therefore such employees only as come within the scope of Rule 1 may be carried on the roster of the Firemen and Oilers' agreement.

AWARD

Claim of employees sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 23d day of July, 1943.