

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 14, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)

INTERNATIONAL-GREAT NORTHERN RAILROAD COMPANY
SAN ANTONIO, UVALDE AND GULF RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the carrier violated the controlling agreement when:

- a. Passenger Car Truckman B. G. Tracy was re-employed May 1, 1944, with seniority rights retroactive to June 11, 1925.
 - b. Said B. G. Tracy displaced Passenger Car Truckman R. L. Armstrong on the 7 A. M. to 3:30 P. M. passenger car truckman's job May 1, 1944.
2. That the carrier be ordered to:
- a. Change the seniority date of B. G. Tracy from June 11, 1925, to May 1, 1944.
 - b. Restore R. L. Armstrong to the 7 A. M. to 3:30 P. M. passenger car truckman's job.

EMPLOYEES' STATEMENT OF FACTS: Prior to March 13, 1944, Passenger Car Truckman B. G. Tracy with seniority date of June 11, 1925, had been working on seven day assigned position at passenger station, San Antonio, Texas, with hours from 7 A. M. to 3:30 P. M. with 30 minute lunch period.

An investigation had been held Feb. 23, 1944, in office of coach foreman, and as a result of this investigation, B. G. Tracy was removed from service of the carrier effective 3:30 P. M., March 13, 1944, and carrier's Form 7079 addressed to master mechanic signed by General Car Foreman L. R. Bell, and Local Chairman of Carmen, Jim Miller, stating: "Discharged in line with investigation held February 23, 1944."

Cover sheet of the copy of investigation furnished carmen's committee showed under "Findings" as follows: "Find this man was very antagonistic and that was no doubt under the influence of intoxicating liquor; also that he threatened employes with pistol while on shop premises." Recommendations—also quoted from cover sheet of investigation, were as follows: "Recommend that this man be removed from the service of this company." This sheet bears the signature in ink of General Car Foreman L. R. Bell, and of Master Mechanic J. M. Armstrong.

On March 14, 1944, bulletin was posted advertising for bids for position of one passenger car truck and platform man to fill vacancy caused by the discharge of Mr. Tracy. Mr. R. L. Armstrong, employed on the 10:00 P. M. to 6:30 A. M. shift, made proper application in writing for the vacancy, and was assigned thereto by Bulletin No. 18-A, dated March 21, 1944.

In view of the above, the carrier submits that the Board should sustain the position of the carrier and deny the claim as set forth in the employees' ex parte statement of claim.

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.

This Board, with and without a referee, has many times declared seniority to be a property right in which employes are vitally interested and this Division is reluctant to take earned seniority away from an employe without the best of reasons. This does not mean that the restoration of seniority should in all cases permit an employe thus re-instated to displace from a regular assignment one who has, under the provisions of the agreement, succeeded to the vacated position.

It is the opinion of this Division that with the recognition of the above mentioned principle relating to earned seniority, and without prejudice to any of the contentions of the respective parties to this dispute, that through conference and negotiation the parties should be able to reach an amicable adjustment of the instant case which is remanded for this purpose.

A W A R D

Dispute remanded in accordance with the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of March, 1946.