

Award No. 1171

Docket No. 1090

2-FEC-CM-'46

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 69, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

**FLORIDA EAST COAST RAILWAY COMPANY
(Scott M. Loftin and John W. Martin, Trustees)**

DISPUTE: CLAIM OF EMPLOYES: 1. That the carrier violated the controlling agreement and particularly revised Rule 14 when or about—

- (a) March 20, 1944, Carman W. S. Bowen was assigned to repair triple valves in the air brake room.
 - (b) March 20, 1944, Carman G. E. Cubbedge has been assigned to the vacancy of general air brake repairman in the passenger car department.
2. That the carrier be ordered to—
- (a) Bulletin the new job in the air brake room repairing triple valves to which Carman Bowen is assigned.
 - (b) Bulletin the vacancy of air brake repairing on cars in the passenger car department to which Carman Cubbedge is assigned.

EMPLOYEES' STATEMENT OF FACTS: At Miller shops,, St. Augustine, Florida, the carrier maintains a passenger car department and a freight car department, including an air room where triple valves are repaired and tested.

Carman W. S. Bowen was formerly assigned in the passenger car department as a general air brake repairman, exclusive of repairing and testing valves. His rate was \$1.04 per hour and his assigned hours were from 7 A. M. to 5:30 P. M. Monday through Friday, and 7 A. M. to 3:30 P. M. on Saturday.

On or about March 20, 1944, Carman Bowen was removed from his former position as general air brake repairman out in shops proper and assigned to repairing of triple valves exclusively in the air brake room.

Carman G. E. Cubbedge was formerly regularly assigned in the passenger car department as a coach truck repairman. His rate was \$1.04 per hour and his assigned hours were from 7 A. M. to 5:30 P. M. Monday through Friday, and 7 A. M. to 3:30 P. M. on Saturday.

On or about March 20, 1944, Carman Cubbedge was taken off his regular passenger truck position and assigned to general air brake repairman's position vacated by W. S. Bowen.

POSITION OF CARRIER: (1) That W. S. Bowen did not forfeit any rights as air brake repairman by being transferred from the air brake room to air brake repairs in the shop, except the differential that he had been receiving for the operation of the test racks.

(2) That the shop committee was right in requesting that the differential be given to the operator of the test rack and that the bulletin advertising the differential job was in accordance with the requirements of the working agreement.

(3) That the assignment of W. S. Bowen to the repairs of air brakes on shopped cars was in accordance with Rule 22 of the working agreement, which reads:

"RULE 22—Faithful Service

Employees who have given long, continuous and faithful service in the employ of the Railway, and who have become unable to handle heavy work to advantage, will be given preference of such light work in their line as they are competent to handle, if such light work is available, or may be given light work out of their line, and rated accordingly, until they reach pensionable age, or pension is agreed upon by the Management."

(4) That the transfer of Mr. Bowen from repairs of air brakes on shopped cars to bench work in the air brake room was in accordance with Rule 22.

(5) That G. E. Cubbedge did not forfeit any rights that he held as air brake repairman when he was transferred from the job of repairing air brakes or shopped cars to the passenger truck repair gang at the time W. S. Bowen was transferred to repairs of air brakes on shopped cars, and that no rule of the agreement was violated when he returned to the job of repairing air brakes on shopped cars when W. S. Bowen was returned to a bench job in the air brake room where he could sit down and work.

(6) That J. T. Brown, W. S. Bowen and G. E. Cubbedge were employed as air brake repairmen and listed as such on seniority rosters issued:

January 22, 1934
October 3, 1934
June 1, 1935
December 1, 1935
December 28, 1936
January 2, 1938
February 21, 1939
March 26, 1942

Above seniority rosters show name of carman, occupation at Miller shop, and seniority date, and copies of these rosters are included in this submission, shown as Exhibit B.

Subsequent rosters are system seniority rosters, and the practice of showing the occupation on the seniority rosters was discontinued at the time of issuing system seniority rosters.

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.

That W. S. Bowen, who formerly held a position cleaning air brake equipment on shopped cars, is a man of advanced years and is unable to perform the all around duties of a carman. The carrier placed Bowen in the air brake room and assigned him to repairing triple valves. G. E. Cubbedge was then placed on Bowen's former position cleaning air brake equipment on shopped cars. It appears that Bowen is seeking a position of lighter duties.

Rule 22 provides in part that employees who have given long, continuous and faithful service in the employ of the railway, and who have become unable to handle heavy work to advantage, will be given preference of such light work as they are competent to handle if such light work is available.

The dispute relative to Carman W. S. Bowen is remanded to the parties to make an earnest effort to find a suitable position for him.

Rule 14 provides for bulletining vacancies.

If Carman Bowen does not return to his former position cleaning air brake equipment on shopped cars, the position now held by G. E. Cubbedge should be bulletined.

AWARD

Claim to be disposed of 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 12th day of December, 1946.