

Award No. 1233
Docket No. 1156
2-UN. Ter.-CM-'48

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee George A. Cook when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 121, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (CARMEN)**

THE UNION TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That the carrier violated the current agreement by the assignment of Coach Cleaner A. J. Miskell, to fill the vacancy of Carman A. B. Jett, from 8 A. M. to 4 P. M. on March 12 and 13, 1947, and accordingly the carrier be ordered to additionally compensate Carman J. A. Swaney in the amount of 8 hours, at the time and one-half rate on each of said dates.

EMPLOYEES' STATEMENT OF FACTS: At Dallas, Texas, the carrier employed J. A. Swaney regularly on the 11 P. M. to 7 A. M. shift, and his seniority date is February 18, 1926.

Carman A. B. Jett was regularly assigned to the carpenter shop, in connection with repairing station trucks and building maintenance work, on the 8 A. M. to 4 P. M. shift. Carman Jett was off duty on account of sickness on Wednesday and Thursday, March 12 and 13, 1947. The carrier elected to fill this vacancy and it assigned Coach Cleaner A. J. Miskell to do so, whose regularly assigned hours also were from 8 A. M. to 4 P. M. Carman Swaney was not called to work in the place of Carman Jett.

The agreement effective March 1, 1938, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: The question involved in this dispute is the alleged right of the carrier to use coach cleaners and/or laborers to perform the duties of carmen, and thereby avoid payment of overtime rate to carmen properly entitled to the work.

Rule 14 of the controlling agreement between The Union Terminal Company—The Dallas Car Interchange and Inspection Bureau—and System Federation No. 121 reads, in part:

“Seniority of employees in each craft covered by this agreement shall be confined in each of the following departments:

Maintenance of Equipment,
Machinists,
Machinists' Helpers,
Boilermakers,
Boilermakers' Helpers,
Electrical Workers,
Electrical Workers' Helpers,
Carmen,
Carmen Helpers,
Coach Cleaners.”

“. . . and availability means if he has registered with Chief Interchange Inspector O. E. Straughn a telephone at which he can be called.”

Even had this claim been subsequent to the agreement of April 5, 1947, there has been no showing made or claimed in handling with the carrier, that the claimant had made himself **available**.

Sixth. There is no question as to Miskell's competency to fill the position occupied by Jett, that of "Repairing Station Trucks and Building Maintenance," and the organization representative at no time has questioned his ability and competency to perform the work.

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.

The evidence in this case shows the carrier violated the rules of the agreement in assigning a coach cleaner to fill the vacancy of a carman.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of January, 1948.