

Award No. 1237
Docket No. 1131
2-CRI&P-MA-'48

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (MACHINISTS)**

**THE CHICAGO, ROCK ISLAND AND PACIFIC
RAILWAY COMPANY**

(Joseph B. Fleming and Aaron Colnon, Trustees)

DISPUTE: CLAIM OF EMPLOYEES: That at Silvis, Illinois, Machinists Lloyd D. Simpson, Wm. Pitcher, Carl F. Jess, Fred B. Moneymaker, Robert M. Smith, Ralph V. Grover, John G. Ontiveros, Achiel V. Fiems, Andrew L. Gochee, Carl E. Nichols, Floyd M. Smythe, Morgan B. McDannell, Edward H. Farus, Louis F. Alonzi and Gabriel Schmidtlein have been unjustly deprived of their service rights since August 1, 1946, and that accordingly they are each entitled to be paid for all time lost retroactive to said date.

EMPLOYEES' STATEMENT OF FACTS: Effective August 1, 1946, the force of machinists employed in the back shop at Silvis, Illinois, was reduced, and in lieu of laying off the junior machinists named below with their seniority roster dates identified after their names—

Junior Machinists	Seniority Date
Frank F. Haber	July 3, 1945
Mark W. Tiemeir	August 5, 1945
Wm. T. Elsey	October 30, 1945
Perry F. Holt	November 9, 1945
Donald W. Peterson	November 16, 1945
Philip H. Williamson	December 1, 1945
Henry Herdt	December 10, 1945
Lowell S. Shipman	December 18, 1945
Oscar Senecant	December 19, 1945
L. V. Knockemus	January 7, 1946
R. J. Smith	January 21, 1946
L. Hatchett	February 4, 1946
J. English	February 8, 1946
L. C. Strohm	July 12, 1946
Pete G. Andon	July 17, 1946

(Machinist Pete Andon, although shown on reduction in force list, was retained in service.)

In the foregoing tabulation, column one shows the names of all machinists working August 1, 1946, who were junior to one or more of the claimants. It will be noted that there are only nine such employees. Column two shows the names of the machinists who, on the basis of seniority of all claimants and employees listed in column one, would have been working on August 1, 1946, if the senior claimants had been qualified and had exercised their seniority in the Diesel gang as contended for by the employees. It will be noted from column two that only five senior claimants would thereby have had sufficient seniority to entitle them to work inasmuch as four men working shown in column one were senior to the balance of the claimants. Therefore, these four men would have continued working along with the five senior claimants. All claimants indicated that they desired to only exercise their seniority in the shop Diesel gang.

There were thirty-six junior machinists working in roundhouse August 1, 1946, and none of the claimants indicated on that date that they desired to exercise seniority in roundhouse.

The carrier desires to draw attention to the following facts with reference to the junior machinists who are alleged to have been employed during the period subsequent to August 1, 1946, which some or all of the claimants were unemployed. T. C. Elsey resigned from the carrier's service on October 1, 1946. L. S. Shipman resigned July 16, 1946, and was not in service August 1, 1946. R. J. Smith transferred at his own request to a position of locomotive fireman on August 31, 1946. J. English resigned August 5, 1946. L. C. Strohm resigned August 30, 1946. Oscar Senecaut was employed December 19, 1945, and has never worked in the back shop; always having worked in the roundhouse.

Inasmuch as they were given an opportunity to exercise their seniority over the junior machinists named by the general chairman if they differed with the management as to the requirements that they so exercise their seniority, they should, nevertheless, have done so, then handled their grievance, if any, in the manner outlined in the controlling agreement. It is, therefore the contention of the carrier that these men are not in any event entitled to any money awards.

We note the employees make claim "for all time lost retroactive to said date." We contend that no payment is due any employee because they failed to indicate to the proper officer that they desired to exercise seniority in the roundhouse pursuant to superintendent of shops bulletin dated July 29, 1946. However, should the Board hold otherwise then we urge that the time lost must be determined by the claimants' seniority right to work in the Diesel gang in the back shop where they stated they wanted to exercise their seniority. We also understand that from any amount which is computed to be due the claimants the carrier is obligated to deduct the appropriate taxes, other deductions authorized by the claimants, amounts paid under the Railroad Retirement Unemployment Insurance Act, if any, to the claimants, during such period, which the carrier is obliged by law to return to the Railroad Retirement Board.

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.

Effective August 1, 1946, the force in the back shop at Silvis, Illinois, was reduced. Rule 22, Reduction in Force, reads in part:

"When forces are reduced at any point or in any department or sub-division thereof, seniority as per Rule 26 will govern. * * *

When forces are reduced or jobs are abolished, the men affected will be given the privilege of placing themselves in accordance with their seniority and they will take the rate of the job on which they have placed themselves. An employe who fails to qualify in accordance with the provisions of Rule 15 will take whatever position may be open in his line of work.

Only such men disturbed by reduction in force or abolition of jobs will be permitted to exercise their seniority under this rule.
* * *

The method provided for in the rule was not followed in this force reduction. The record is confusing as to the particular or individual claimants who may be entitled to payment for time lost, under the rules, which should be resolved on the property.

AWARD

Claim sustained 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 4th day of February, 1948.