

Award No. 1280

Docket No. 1219

2-GN-MA-'48

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Machinists)

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That the seniority date of Machinist James Cincoski should be May 28, 1942, rather than March 3, 1941 as now shown on the Jackson Street Machine Shop roster at St Paul, Minnesota.

JOINT STATEMENT OF FACTS: On March 3, 1937, James Cincoski was employed by the carrier at its Jackson Street Shops in St. Paul, Minnesota, as a regular machinist apprentice and under the terms of the controlling agreement then in effect it was expected that by working steadily he would have completed his four year apprenticeship on or about March 3, 1941. However, due to shop shut downs, illness and other causes, Cincoski was unable to work steadily and as a result lost considerable time toward the completion of his apprenticeship.

On May 5th, 1941, Machinist Richard Saum was employed at the Jackson Street Shops and on that date James Cincoski was still working there as an apprentice.

On October 3rd, 1941, James Cincoski (who on that date had 204 days left to complete his apprenticeship) was inducted into military service.

On April 21st, 1942, while Apprentice Cincoski was in military service, Machinist Joseph Tucci was employed and given a seniority date as of that date.

On August 17th, 1945, the management of the Great Northern Railway Company and System Federation No. 101, in an effort to afford equitable treatment to apprentices in the armed forces entered into an agreement (copy of which is submitted and designated as "Joint Exhibit A") by which it was intended that apprentices would be permitted to establish mechanics' seniority dates on the same basis as they would have established them, had not military service interfered.

The seniority rosters of the Jackson Street Shops which were drawn up in January 1945 and prior to the making of the August 17th agreement were as follows:

MACHINISTS		MACHINIST APPRENTICES	
1. Cincoski Leo	5-19-10	1. Cincoski James	3- 3-37
2. Hicks William	7-14-22	2. Koechler Edward	4- 7-41
3. Glende Walter	8- 7-22	3. Alesso Samuel	12-29-42
4. Smith Reuben	8-11-22	4. Jablonski Jerome	11-26-43
5. Blair Harry	8-19-22		
6. Massey William	10-11-22		
7. Lang Math	11- 2-22		
8. Grossman Hyman	8-14-39		
9. Saum Richard	5- 5-41		
10. Tucci Joseph	4-21-42		
11. Smith Edward	7-14-43		

and Tucci but the carrier holds that it had no option in the matter in view of the very clear and explicit language of the agreement.

We therefore hold that even though your Board may feel that an injustice has been done Messrs. Saum and Tucci, you cannot do other than sustain the action of the carrier in this case in view of the language of the agreement.

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.

A Memorandum of Agreement was entered into between the Great Northern Railway Company and System Federation No. 101, Railway Employees' Department, A. F. of L., signed August 17, 1945, effective August 15, 1945, in pertinent part reading:

"1. Apprentices who enlisted or were inducted into the various military services of the United States of America on and subsequent to September 8th, 1939, who following their release from such service, return to the service of the Great Northern Railway Company and complete their apprenticeship, will be given a mechanic's seniority date as of four (4) calendar years after the date started as an apprentice. (Three (3) calendar years for helper apprentices.) EXAMPLE: Regular apprentice started January 1, 1941, seniority as a mechanic to date from January 1, 1945."

The language above quoted is clear and unambiguous.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 22nd day of October, 1948.