

Award No. 1282
Docket No. 1225
2-AT&SF-CM-'48

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY (EASTERN LINES)**

DISPUTE: CLAIM OF EMPLOYEES: That effective September 16, 1947, the carrier unjustly deprived Carman Helper A. K. Sump of his service rights under the current agreement, and that accordingly the carrier be ordered to restore this employe to service with pay for all time lost, retroactive to said date.

EMPLOYEES' STATEMENT OF FACTS: A. K. Sump, hereinafter referred to as the claimant, was regularly employed by the carrier as a carman helper at Newton, Kansas, with a seniority date of October 15, 1945, and his regularly assigned hours were from 8 A. M. to 4 P. M.

D. C. Wiggers was regularly employed by the carrier as a carman helper at Salina, Kansas, with a seniority date of June 20, 1946.

Carman helpers at Newton and Salina, Kansas, are carried on the same seniority roster, a copy of which is submitted, identified as Exhibit A.

As the result of a force reduction the claimant was given a written notice on September 15 that a senior helper was displacing him from service at the close of his shift that day, a copy of which is submitted, identified as Exhibit B.

The claimant, upon receipt of said notice, elected to displace the junior carman helper on the seniority roster—Carman Helper Wiggers—effective September 16, 1947, and his request was declined. There was no other junior helper to the claimant on the seniority roster.

This dispute has been handled in accordance with the provisions of the controlling agreement up to and including the highest designated carrier officer to handle such dispute, with the result that this officer has declined to satisfactorily adjust it.

The agreement effective August 1, 1945, is controlling.

POSITION OF EMPLOYEES: It is submitted that when this claimant was laid off at the close of his shift on September 15, 1947, Exhibit B, he was unjustly deprived of the service rights to which he was guaranteed under the current collective bargaining agreement, by virtue of these indisputable facts—

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.

A. K. Sump was employed at Newton, Kansas, as carman helper with seniority date of October 15, 1945. D. C. Wiggers was employed at Salina, Kansas, as carman helper with seniority date of June 20, 1946. Both men are shown on the same seniority list with the above dates.

September 16, 1947, Sump was laid off in reduction of force at Newton and was not permitted to displace Wiggers at Salina. He later secured employment in the maintenance of way department. On April 30, 1948, Sump was recalled to service as carman helper, but declined to return.

Rule 41 of the current agreement reads:

"ROLLING OR BUMPING. Rule 41. The indiscriminate exercise of seniority to displace junior employes, which practice is usually called 'rolling' or 'bumping', will not be permitted. However, an employe whose job is abolished, or who may be displaced from his position by other causes, will be permitted to exercise seniority on any job occupied by a junior employe on his seniority list."

Under this rule Sump was entitled to displace Wiggers.

There is nothing in item 7, appendix B, to modify Rule 41 in circumstances of this case.

AWARD

A. K. Sump shall be compensated for pay lost from September 16, 1947, to April 30, 1948, less earnings in other employment.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 12th day of November, 1948.