

Award No. 1447

Docket No. 1360

2-B&O-FT-'51

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Federated Trades)

BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: Under the current agreement are Homer L. Plummer and Willard E. Everett entitled to the classification of a machinist helper and seniority rights as such or to the classification of a blacksmith helper and seniority rights as such as of the dates they were respectfully assigned as operators of threading machines in the Cumberland bolt and forge shop?

EMPLOYES' STATEMENT OF FACTS: Mr. Homer L. Plummer was classified as a machinist helper at the Cumberland back shop, with seniority date of 4-25-23. On February 6, 1924, he was transferred, by an understanding reached at that time, to the Cumberland bolt and forge shop and assigned to operate a threading machine and classification was changed to threading machine operator as blacksmith helper and paid helpers' rate of pay from that time to date.

Mr. Willard E. Everett entered the service of the Baltimore and Ohio Railroad Company at the bolt and forge shop at Cumberland as a laborer on December 12, 1924. On January 26, 1925, he was promoted to threading machine operator at the bolt and forge shop and was paid helpers' rate of pay with his name being put on the blacksmith helpers' seniority roster from that time to date.

The agreement effective September 1, 1926, as subsequently amended is controlling.

POSITION OF EMPLOYES: The employees contend that they should be entitled to seniority as machinist helpers instead of blacksmith helpers regardless of the fact that they were assigned to operate threading machines in the blacksmith shop because it is alleged that there were occasions in filling these assignments until the latter part of 1936, when they were used to help machinists.

There is no dispute existing between the crafts as to the jurisdiction of work.

POSITION OF CARRIER: On February 6, 1924, Homer L. Plummer was working as threading machine operator in this carrier's bolt and forge shop at Cumberland, Maryland, Cumberland Division. On July 23, 1928,

In summary, the stipulated provisions of Circular No. 233 had set forth a positive time limit on all such seniority questions. The proper course of action was open to the petitioners. They could have submitted written protest within the stipulated time period explaining in full the reasons for such protest.

For these definite reasons the carrier submits that the petitioners cannot now come forward with an equitable plea that their seniority was jeopardized. The only legitimate inference to be derived from these facts is that the petitioners' inaction was literal acceptance of their seniority status as shown on the 1934 roster.

In view of all that is contained above, the carrier respectfully requests that the Division, in acting in this matter, respond to the question posed by petitioners, Homer L. Plummer and Willard E. Everett, by holding that they are entitled "* * * to the classification of a Blacksmith Helper and seniority rights as such * * *."

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 record discloses no evidence that would warrant a finding that the claimants were other than blacksmith helpers.

AWARD

Homer L. Plummer and Willard E. Everett are properly classified as blacksmith helpers.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman,
Executive Secretary.

Dated at Chicago, Illinois this 30th day of March, 1951.