

Award No. 1988
Docket No. 1887-I
2-CRI&P-I-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

N. O. PRIEST—CLAIMANT
SHEET METAL WORKER HELPER

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: Petitioner herein is claiming that he is entitled to back pay and reinstatement in his former position. The basis of the claim is that the Railroad and System Federation No. 6 have jointly discriminated against him in discharging him while retaining in their employment a person with less seniority than petitioner. Expressed in another way, petitioner has been discriminated against by respondents when they, in violation of the contract create, setup, or provide a new classification, category or position, and place in this category a man with less seniority than petitioner, in an attempt to keep petitioner the "low man" or junior man in the particular classification that petitioner works in. The reasons for attempting to keep petitioner the junior man is to enable the respondents to legally discharge him when the opportunity arises. The personal animosity that exists against petitioner stems from or is based on his affiliation with a rival union that petitioner once belonged to. Petitioner had a legitimate grievance several years ago, and when the respondents failed, neglected, and refused to handle this grievance, petitioner joined the U. R. R. W. A., C. I. O. and this labor organization proceeded to represent Mr. Priest and through the grievance procedure existing under the contract between the Railroad and System Federation No. 6, did satisfactorily prosecute said grievance and obtained an award of \$125.00 back pay and reinstatement. When the law was changed so that only the representative union was entitled to represent the particular employes, petitioner re-joined the union duly authorized to bargain for and represent the employes in petitioner's classification. Since petitioner became a member of the C.I.O., the respondent Union has, contra to law, failed, neglected and refused to bargain for and represent petitioner, and have instead manifested an open and obvious personal animosity toward petitioner.

EMPLOYEES' STATEMENT OF FACTS: N. O. Priest was employed by the Rock Island as a laborer on October 29, 1923, and remained in that capacity until January 14, 1942, at which time he was promoted to copper-smith's helper. He remained in this capacity until some time around June 1, 1946, when he was removed from service because of a reduction in forces. At the time Priest was taken out of service, one L. L. Acre was permitted to remain in service even though L. L. Acre had less seniority than N. O. Priest. This situation resulted in a dispute between N. O. Priest on the one hand and System Federation No. 6 and the railroad on the other hand. This dispute was resolved ultimately with N. O. Priest, who had the assistance

The duly certified representative of the Sheet Metal Worker's International Association has denied that a dispute exists between the men whom he represents and the Rock Island Railroad with reference to the Priest claim.

For the above mentioned reasons, both severally and singly, carrier respectfully petitions your Board to decline to hear this claim. Should your Board assume jurisdiction of this claim, we further petition that the claim be declined on the basis that the facts in the case do not support an affirmative Award.

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 claimant, N. O. Priest, was employed at Little Rock, Arkansas as a coppersmith helper (sheet metal worker) with a seniority date of January 14, 1942 and was laid off in a reduction of force in December 1948.

He alleges that his furlough was improper because one L. L. Acre, who had been a sheet metal worker helper with less seniority than N. O. Priest, was promoted to a Helper Apprentice in February 1948. Claimant alleges that L. L. Acre was advanced to an apprentice improperly. The record does not support such allegation.

No dispute exists on this question between parties to the controlling agreement.

At the time N. O. Priest was furloughed there were no sheet metal worker helpers retained in the employ of the carrier that were junior to the claimant, therefore, we find no violation of the agreement.

AWARD

Claim of employe denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of September, 1955.