

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

**A. NIELIWOCKI, J. PAWELCZAK, J. COMISKEY, C. DREHS,
AND L. RATAJSKI, Machinists.**

THE NEW YORK CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: (1) That the following employees, Machinists, Nielowski, Pawelczak, Comiskey, Drehs and Ratajski were discriminated against when the carrier refused to dovetail them on the Collinwood Diesel Shop roster with their West Albany Shop roster date the same as other West Albany Shop employees.

(2) That the carrier be ordered to dovetail the above named employees on the Collinwood Diesel Shop roster with their West Albany Shop dates.

EMPLOYEES' STATEMENT OF FACTS: The above named employees were furloughed from the West Albany shops on September 28, 1951, due to dieselization of the railroad. Mr. Nagle, superintendent of West Albany shops advised the employees who were furloughed that under rule 29 of the current agreement they could go to work at Collinwood diesel locomotive shop, the employees involved in this dispute took advantage of this offer and all started work at the Collinwood shops sometime in the month of October, 1951.

In March, 1952, five months after the employees involved had started work at the Collinwood diesel shops, they were advised by a letter dated March 5, 1952, that the employees who were furloughed in the reduction in forces on September 28, 1951, at West Albany shops would have displacement rights at the Harmon locomotive terminal, this was five months after the said employees had started work at Collinwood shops and as most of them had regular jobs they stayed at Collinwood.

Further reductions in forces were made at West Albany shops in the year of 1952 and then on November 14, 1952, a letter was sent to all furloughed employees who were furloughed subsequent to March 5, 1952 (we call your attention to the date of March 5, 1952; this is the date of the letter sent to the employees involved in this dispute giving them displacement rights at Harmon terminal) at West Albany shops giving them the right to transfer to Collinwood diesel shop with their seniority date that they held at West Albany shops or the De Pew shop date as the case might be, copy of said letter is submitted herewith and identified as exhibit A. About seven machinists transferred and had their seniority date dovetailed in on the Collinwood shop roster.

failed to take advantage thereof. No exception to Rule 31 has been negotiated between the parties to the applicable agreement permitting the claimants to dovetail their seniority at Collinwood, as petitioned by the claimants in the instant case.

This Division, in its findings leading to Award 1811, stated—

“Seniority of an employe grows out of the agreement negotiated between the Carrier and the duly accredited representatives of the craft or class of such employes. Seniority rights of an employe can only be such as the provisions of the collective agreement provide for. When, as here, a question arises as to the proper seniority date of an employe under the controlling agreement, the duly accredited representatives of the parties to the agreement have the power to interpret such an agreement so long as the interpretation applies to all of the craft or class alike.”

These findings are fully as applicable to the instant case.

The carrier has clearly shown that there is no basis for the request of the claimants in the instant case. Therefore the claim should be denied in its entirety.

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.

The duly accredited representatives of the parties to the controlling agreement have the power to negotiate agreements or memorandums of agreement so long as they apply to the craft and class alike and do not discriminate against any employes covered by same.

The question of whether an injustice occurred to the claimants in the chain of events which led to the situation in which they now find themselves, is highly technical and one, the Division believes, which should be resolved by the parties to the memorandums of agreement here involved. The claim is therefore remanded for a period of ninety days in order that the parties to the agreement may, if possible, satisfactorily resolve the matter in dispute. If, at the end of ninety days, no settlement satisfactory to all concerned is reached, the dispute may again be referred to the Division by the petitioners.

AWARD

Remanded per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December, 1955.