

Award No. 2681
Docket No. 2566
2-MC-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

MAINE CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the proper seniority date of Joseph F. Banks on the Electrician Helpers' seniority roster is October 14, 1955.
2. That Electrician Helper Joseph F. Banks was improperly removed from his helper's position on October 28, 1955.
3. That accordingly the Carrier be ordered to compensate Electrician Helper Joseph F. Banks for all subsequent time lost as a result of the Carrier's action in removing him from said position.

EMPLOYEES' STATEMENT OF FACTS: Joseph F. Banks, hereinafter referred to as the claimant, was employed as electrician helper on October 14, 1955, at the Waterville Shop of the Main Central Railroad, hereinafter referred to as the carrier, to fill a temporary vacancy.

The claimant had previously worked as electrician helper from March, 1953, until April, 1954, but had relinquished his seniority as such when recalled from furlough as an upholsterer in April, 1954.

On October 18, 1955, Bulletin #MP-55-80 was posted advertising a temporary vacancy for electrician helper, subject to the return of regular incumbent, Frank Grover. Copy of bulletin is submitted herewith and identified as Exhibit A.

On October 19, 1955, the claimant made written application for same. Copy of application is submitted herewith and identified as Exhibit B. The claimant made the only written application for the bulletined position.

The carriers submit, therefore, that the instant claim before your Honorable Board is solely an attempt on the part of the employes to secure from your Board a false and illegal interpretation of Rule 39 of the reprinted agreement of October 1, 1955 between the parties, and thereby settle, as they think, their internal problems which they were unable to settle by—

1. Their jurisdictional agreement of January 20, 1954, as covered in Part 1 of the carriers' position

2. Their efforts to induce the general chairman of the firemen & oilers to give up all or a part of Rule 7 of his agreement with the carriers covering the promotion of laborers, as covered in Part 2 of the carriers' position, and

3. Their wrongful interpretation of Rule 39 of the reprinted agreement of October 1, 1955 between the parties, as covered in Part 3 of the carriers' position.

Your Honorable Board has repeatedly held that it is without authority to revise, rewrite or expand agreements.

We respectfully offer that the employes are attempting, in the instant claim before your Board, to change, by unilateral action thru an award from your Board, the interpretation of Rule 39 of the reprinted agreement of October 1, 1955 as agreed to by the parties.

To sustain this claim would impose upon the carriers conditions of employment and resulting obligations which were not agreed to by the parties, which would be in conflict with other rules of the reprinted agreement of October 1, 1955 between the Parties, and in utter conflict with Rule 7 of the Firemen & Oilers' Agreement.

The carriers respectfully request that your Honorable Board deny this claim 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.

If Rule 39 be deemed to apply to hiring of helpers to fill vacancies, as the employes contend, we are confronted with the phrase "unless otherwise provided for." Rule 7 of the Firemen and Oilers' agreement provides that employes possessing fitness and ability "will have preference over new employes in filling vacancies as Mechanics Helpers." That is something otherwise provided for in such cases and was one of the reasons for carrier's insistence upon the language in Rule 39.

Claimant had seniority rights as a Carman and Carman Helper only and no right to work in any other craft, Rule 26 A (a). Hence when being hired for work in some other craft he occupied the status of a new employe in that craft and employes holding preference rights over new employes were first entitled to fill the vacancy if they desired to do so.

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AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION**

**ATTEST: Harry J. Sassaman
Executive Secretary**

Dated at Chicago, Illinois, this 26th day of November, 1957.