

Award No. 2820

Docket No. 2598

2-B&O-SM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Livingston Smith when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYEES'
DEPARTMENT, AFL (Sheet Metal Workers)**

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That under the current agreement Sheet Metal Worker Melvin S. Leese contends that he holds seniority over Sheet Metal Worker C. W. Davis; and, the claimant further contends that he was unjustly deprived of his seniority rights as a sheet metal worker.

EMPLOYEES' STATEMENT OF FACTS: The 1953, 1954, and 1955 sheet metal workers' seniority rosters, Cumberland Division, showed Melvin S. Leese as helper apprentice with seniority date of 11-1-52 and C. W. Davis as sheet metal worker helper apprentice with seniority date of 11-1-52; Melvin S. Leese's name appearing in number one position and C. W. Davis's name appearing in number two position on the above dated seniority rosters.

On January 28, 1954, Melvin S. Leese was issued a furlough notice and was not recalled to service until March 23, 1955, during this period C. W. Davis was permitted to work as a sheet metal worker apprentice.

The carrier compensated Melvin S. Leese, the sum of \$2,500, and gave him credit toward his apprenticeship of 302 days of being improperly furloughed.

This dispute has been handled with the carrier up to and including the highest officer so designated by the carrier; with the result that he had declined to adjust it.

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

POSITION OF EMPLOYEES: Melvin S. Leese contends he started his sheet metal worker helper apprenticeship on November 1, 1952, the same date that C. W. Davis started his helper apprenticeship, but that on 1953, 1954, and 1955, Cumberland Division seniority rosters Melvin S. Leese was ranked

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 confronting claim concerns the seniority status of one Melvin S. Leese. It is asserted this named claimant has been improperly shown as being "junior" to employe C. W. Davis on the seniority roster which was posted on January 19, 1956. Request is made that claimant's status be changed to reflect a "senior" position to employe C. W. Davis.

The question as to the proper position of claimant Leese and employe Davis arose by virtue of said employes becoming sheet metal worker helper apprentices. There is evidence of record that one or more errors were made in determining the proper seniority status of these two employes, each to the other. As the result of one of these errors, the effect of which was protested by claimant, but not by employe Davis, it was concluded by the parties hereto that claimant had been improperly furloughed. Reparations were paid claimant for time lost account of this furlough and he was credited with some 302 days toward the time required to complete his helper apprenticeship.

The record further indicates that for a number of years the following interpretation as to the proper application of Rule 28 (Seniority) has been in effect on this property:

"A seniority roster of all employes will be compiled in accordance with prescribed form at each seniority point above shown and will be posted on bulletin boards at all shops located on each seniority district, available for inspection by employes interested. Copy of roster will be furnished Local Chairman. Rosters will be revised and posted in January of each year and will be open to protest for a period of sixty (60) days from date of posting. Upon presentation of proof of error by an employe or his representative, such error will be corrected.

Except to correct typographical errors, the 60-day period referred to in the preceding paragraph will be invoked only in the case of employes whose names appear on the roster for the first time. If any question should arise as to the proper date of any employe whose name has appeared on a previous roster, it will be changed only by mutual understanding between the System Federation Committee and the Assistant to Vice President."

The questioned seniority roster was posted on January 19, 1956. Claimant's written protest addressed to the Division Engineer bears date of March 27, 1956. Such protest having been made after the expiration of the 60-day period, so provided, cannot now said to be timely. So therefore the claim is not valid.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 14th day of April, 1958.