

Award No. 3083

Docket No. 2798

2-L&N-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Thomas A. Burke when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the terms of the Agreement when on August 20, 1956, Carman Helper Ray Collett was employed as carman (car inspector) at Lexington, Kentucky.

2. That accordingly the Carrier be ordered to additionally compensate carmen at Lexington, Kentucky for each assignment worked by Carman Helper Collett from August 20 through September 19, 1956, at time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: On August 13, 1956 the carrier's foreman at Lexington, Kentucky placed Bulletin No. 58 on the bulletin boards advertising a position of freight car inspector; copy of Bulletin No. 58 is submitted herewith and identified as Exhibit A.

Under date of August 20, 1956 the carrier's general foreman at Lexington, Kentucky posted Bulletin No. 58-A awarding the aforesaid position to Carman Helper Ray Collett; Bulletin No. 58-A is submitted herewith and identified as Exhibit B.

Carman Helper Collett held no seniority whatever at Lexington, Kentucky. His seniority is at Ravenna, Kentucky and as a carman helper, only.

Carman Helper Collett worked the assignment of car inspector at the carrier's Lexington facilities from August 20, 1956 through September 19, 1956, inclusive, with an assignment of 11 P.M. to 7 A.M., Wednesday and Thursday, 3 P.M. to 11 P.M., Friday and Saturday, and 7 A.M. to 3 P.M. on Sunday.

This case has been handled from bottom to top with carrier officials designated to handle such affairs, all of whom declined to adjust the dispute.

NOTE: Helpers advanced as above will retain their seniority as helpers until they are qualified as carmen under the qualification rule and within thirty days thereafter shall make their choice whether to take seniority as a carman or retain seniority as a helper.

In the event of force reduction, in the absence of other existing arrangements, demotion shall be in the reverse order to that of upgrading.

This rule shall become effective August 1, 1953, except on such carriers as may elect to preserve existing rules or practices and so notify the authorized employe representative on or before July 1, 1953."

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.

Parties to said dispute were given due notice of hearing thereon.

The Claimants contend that the Carrier violated the terms of the agreement in employing Carman Helper Collett as a Carman at Lexington, Kentucky. It seems clear under the agreement that Carman Helper Collett could only be upgraded at the point where he was employed, to wit: Ravenna, Kentucky. However, the Carrier contends that the agreement of June 1, 1953, is controlling and relies upon Article III of that agreement. Article III provides that apprentices will be advanced to carmen * * * if more men are needed, helpers will be promoted. However, there were apprentices available. Apprentices had made application to be transferred. Therefore, the Carrier violated Article III of the 1953 agreement.

However, the furloughed apprentices have filed no claim either on the property or before this Board and we find that the carmen who made the claim are not specifically identified, and so Claim 2 must be denied.

AWARD

Claim 1 sustained.

Claim 2 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 19th day of January, 1959.