

Award No. 3255
Docket No. 3025
2-StLSW-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Roscoe G. Hornbeck when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 45, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the rules of the controlling agreement Carman T. L. Davis was unjustly dealt with when his name was removed from the Carmen's seniority roster at Pine Bluff, Arkansas.

2. That accordingly Carrier be ordered to restore the above named employe to the Carmen's Seniority Roster at Pine Bluff, Arkansas, with seniority date in subdivision "D" as of October 8, 1946.

EMPLOYEES' STATEMENT OF FACTS: Prior to November 1, 1953, there were 16 separate subdivisions of the carmen's craft, with 15 subdivisions being listed on the 1952 seniority roster at Pine Bluff, Arkansas. These were as follows:

1. Upholsterers
2. Coach Builders
3. Upholsterer, Cabinetmaker, Coach Builder and Locomotive Carpenter Helpers
4. Passenger Car and Locomotive Truckmen
5. Wood Working Machinists
6. Wood Working Machinists Helpers
7. Decorators and Coaters and Varnishers

the rules, and would have left claimant still holding seniority in the entire subdivision, but with only one prior right date instead of two. For work on a position of carman he would have the same status that he had held as car inspector, test rack operator, etc. In other words, the effect would be not to "forfeit seniority" in a "subdivision", but to forfeit a prior right, which in effect would have been to change a seniority date held at the time of the consolidation.

Carrying this illustration further: Suppose that claimant had been recalled as coach builder and had failed to return. Under the theory the employes advance this would have eliminated the date of 10-8-46 and the letter "D" from the roster. With these eliminated, what would have been his status on the roster? There would be nothing to support his rank on the roster. If he held his rank without a date the effect would be to change his seniority rights as coach builder to the same as those of test rack operator, etc.

Clearly the rules do not contemplate such a change. The most elemental fact involved in the consolidation of seniority subdivisions was that there would be one such subdivision instead of five.

In conclusion the carrier respectfully submits that the facts cited above show that the claim is not supported by the rules and should be denied.

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.

Carrier invokes, in support of its action in forfeiting claimants seniority rights, that part of Rule 18-4 of the controlling agreement which provides that employes failing to report for duty within 15 days from date of notification of intent to restore service in accordance with seniority, will forfeit their seniority in that subdivision.

On December 31, 1954, Claimant was furloughed, account of reduction of forces.

In July 1955, he was recalled to service as a Carman, and appearing, took a leave of absence.

Although it does not clearly appear, it is stated and not denied, that had this call been made during the former agreement of October 1, 1937, it would have been controlled by Claimant's seniority under subdivision 8, Caboose and Freight Car Body Builders.

Claimant took four leaves of absence succeeding this first, and did not report to the Carrier within 15 days after expiration of last leave. He received but one notification.

When furloughed, claimant appeared on the Seniority Roster:

No.	Name	Seniority Date
94D	Davis, T. L.	10-8-46 A 3-26-52

Under Rule 20, present agreement, there is a general heading "Carmen" and thereunder "4 Other Carmen". On the seniority roster "Other Carmen" is supplemented by the letters A B, C, D and E.

Following A—"designating positions filled from seniority roster of Caboose and Freight Car Body Builders."

D: Same as A, except it relates to "Coach Builders."

Positions in A and D had been covered theretofore in the prior agreement in subdivisions 8 and 3.

Several rules of this controlling agreement evidently were adopted to protect and preserve the status of the craft in the subdivisions of the prior agreement under which they had secured their seniority.

Rule 18-4, Second paragraph, provides: "* * * Employes failing to return to service within fifteen (15) days after being notified will forfeit seniority **in the subdivision to which recalled.**" (Emphasis ours.)

Rule 20-3: "It is understood that seniority dates now held in the various subdivision by the various employes **shall not be disturbed.**" (Emphasis ours.)

To permit a classification which ignores the seniority which it is admitted Claimant secured in two subdivisions under the prior agreement, does violence to Rules 18-4 and 20-3 of the current agreement.

The claim of the employes is sound that, as to Claimant, the characters A to E inclusive on the seniority roster must be held to define subdivisions of Carrier. It appears that the Carrier has so construed the agreement in similar instances.

AWARD

Claim allowed in both branches.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1959.