

Award No. 3332
Docket No. 3273-I
2-IC-I-'59

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**ELMER JACKSON, BY ATTORNEY TERRELL,
SCHULTZMAN AND HARDY**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

That under and by reason of the Statement of Facts herein, the Carrier disregarded the Petitioner's rights of seniority by laying him off from work on February 28, 1959, by not permitting him to return to work until December 17, 1958, and by employing younger workmen in point of service to continue in their employment and to take his position during the period from March 3, 1958, to December 17, 1958, and the Carrier has thereby arbitrarily, unlawfully and in violation of the rules of seniority denied to him his rights.

EMPLOYES' STATEMENT OF FACTS: 1. Petitioners state that the International Brotherhood of Firemen, Oilers, Roundhouse and Shop Laborers, is an unincorporated association with a local chairman located and with members residing in Paducah, Kentucky; that at all times complained of herein there was in effect between said labor union and the carrier, a labor agreement, a copy of which is submitted herewith and identified as "Petitioners' Exhibit No. 1," providing rules and regulations relating to the classification of employees, rights of seniority, and working conditions generally; and that said union was authorized to enter into said labor agreement with the carrier for and on behalf of the petitioner and all of its other members employed at the aforesaid railroad shops in Paducah, Kentucky.

2. The aforesaid labor agreement contained, among others, the following provisions:

"SENIORITY

"Rule 16. Seniority begins at the time the employee's pay starts.

"(a) Seniority of employees in class A or B shall begin when pay starts after assignment as per Rule 25 by bulletin and interpretation thereof.

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 Railway Labor Act contemplates that before a grievance can be brought to this Board it "shall be handled in the usual manner up to and including the chief operating officer of the carrier designated to handle such disputes." This was not done with respect to the claim that is pending before this Board.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois this 7th day of October, 1959.