

Award No. 3460

Docket No. 3442

2-P&LE-TWUOA-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when the award was rendered.

PARTIES TO DISPUTE:

**TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO
(Railroad Division)**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY
AND THE LAKE ERIE & EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: On May 20, 1958 a notice was posted on the bulletin board stating that at the close of business May 23, 1958, K. S. Shop, Fabricating Plant, Planing Mill and the Upholstering Shop would be closed. This of course meant that there still would be some men working in the "Y" Yard. This also meant that any employee who has enough seniority to hold a job that is still working is allowed to bump if his job is abolished. This is according to Rule 40 paragraph (f).

Now at McKees Rocks the Carrier has a wreck-crew gang. These jobs are still working but when the older men who are furloughed, their original jobs abolished, asked the Foreman to allow them to bump these wreck-crew jobs the Foreman would not allow them to bump. This is a violation of Rule 40 paragraph (f).

The following men asked for the bump and were told they could not bump the wreck-crew men: F. Bobchak, H. Keener, T. Goven, M. Bezila, J. Duggan, P. Joseck and B. Komer.

Since these men are older than the men working the wreck-crew jobs the Organization is asking that the Carrier compensate the above mentioned men for every day that the junior men work while the older men are furloughed. This means for all time worked by the junior men of the wreck-crew.

EMPLOYEES' STATEMENT OF FACTS: This case arose at McKees Rocks, Pa., and is known as Case M-206.

That the following men at the close of business May 23, 1958 were furloughed men without jobs: F. Bobchak, H. Keener, T. Goven, M. Bezila, J. Duggan, P. Joseck and B. Komer yet they were told by the foreman that they could not bump junior men who were still going to work.

he was recalled as a carman. During this period the six furloughed carmen registered for and collected unemployment compensation in accordance with the provisions of the Railroad Unemployment Insurance Act.

CONCLUSION: The carrier has shown that it could not permit the displacement of the entire wrecking crew force by inexperienced men. In order to avoid possible injury to the employes themselves as well as damage to equipment and property, the carrier deemed it advisable to retain the experienced ground carmen wreckers rather than permit senior inexperienced employes to exercise displacement rights. The carrier has also shown that in cases where senior carmen had wrecking service experience they were permitted to exercise displacement rights on the wrecking crew.

The carrier respectfully submits that the claim is without merit 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.

The parties to said dispute were given due notice of hearing thereon.

This case arose at McKees Rocks, Pa., when the claimants asked that they be permitted to bump junior men when these senior men were furloughed and their original jobs abolished. The positions in question were as members of the wreck-crew.

The Organization contends that the Carrier in refusing the claimants the right to bump the junior employes violated Rule 40, paragraph (f).

While we agree with the Organization that seniority must be respected, it is necessary for us to permit the Carrier some latitude in this case. Carrier has the responsibility of seeing that the wrecking crew is properly manned and to replace the seven experienced men would leave the wreck master with a completely inexperienced force with the exception of the engineer, cook, and fireman.

Rule 39 (a) specifically deals with seniority and the parties recognized that in bidding on vacancies or new positions, fitness and ability must be considered.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of May, 1960.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3460

There is no authority in the controlling agreement for the conclusion of the majority that "it is necessary for us to permit the carrier some latitude in this case."

Such a conclusion ignores the express terms of Rule 40 (f) which provides that "in case of a reduction in force or the abolition of a position employees affected shall be allowed to exercise their seniority in displacing junior employees."

James B. Zink

R. W. Blake

Charles E. Goodlin

T. E. Losey

Edward W. Wiesner