

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

MR. ELMER JACKSON

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 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, 1958, and by not permitting him to return to work except for the period from December 15, 1958 to January 6, 1959, and by employing in his place and stead during said period one R. H. Broady, a member of Class "C" of workmen, inferior to Class "B" of which the Petitioner was a member; and the Carrier thereby denied him his rights arbitrarily, unlawfully, and in violation of the rules of seniority.

EMPLOYEE'S STATEMENT OF FACTS: Petitioner states 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, including this petitioner, as members thereof; that at all times complained of herein there was a labor agreement in effect between said labor union and the carrier, 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 for 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.

(b) Seniority is not established in Class A or B under temporary appointment pending assignment by bulletin.

(c) Employees hired in Class A or B shall be given seniority in Class C on date pay starts. Seniority in class A or B will be established as outlined in paragraph (a).

Rule 17. Rights accruing to employees under their seniority entitled them to consideration for positions in accordance with the relative length of service with the Railroad, as hereinafter provided.

ment under which claimant asserts his rights, are in agreement that the claim has no merit. In Third Division Award 6822, the Board said:

"The issue presented in this docket must necessarily be determined on the basis of the controlling agreement and in accordance with the interpretation put upon that agreement by the parties thereto; those parties being in accord that the claim is without merit it must be denied."

In Third Division Award No. 6248, the Board said:

"The evidence of record reveals that the parties to the controlling Agreement are in accord that the claim is not supported by the rules."

Similarly, in Third Division Award 9270, the Board said:

"The record shows that there is agreement between the parties signatory to the applicable agreement concerning the propriety of the action taken thereunder in the instant case. Accordingly, Petitioner's claim herein is without merit."

See also Third Division Awards 5558, 6895, 6915, 7490, and 7942.

The claim of Elmer Jackson is not supported by the rules, and the parties to the controlling agreement are in accord that it is not valid. The claim 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 employee or employees involved in this dispute are respectively carrier and employee 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 waived right of appearance at hearing thereon.

The record shows that the claimant had a Class "C" seniority date of November 6, 1951, whereas the employee he is attempting to displace appears on the Class "C" seniority roster with a date of April 30, 1943-eight and one-half years prior to the seniority of the claimant.

The controlling agreement does not support this claim.

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 September 1960.