

Award No. 4460

Docket No. 4281

2-MP-BK-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O.
(Boilermakers & Blacksmiths)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Missouri Pacific Railroad Company violated the current agreement, when they arbitrarily furloughed Mr. Young at close of shift on January 10, 1961.
2. That accordingly, the Missouri Pacific Railroad Company be ordered to return Mr. Hugh W. Young to service and compensate him for January 11, 1961 and each work day thereafter until the violation is corrected and he is returned to work.

EMPLOYEES' STATEMENT OF FACTS: Mr. Hugh W. Young, hereinafter referred to as the claimant, is employed in the capacity of welder at St. Louis, Missouri, by the Missouri Pacific Railroad Company, hereinafter referred to as the carrier. The claimant's name appears on the boilermakers' seniority list with seniority date of May 12, 1923 as a welder, and the claimant carries seniority as welder separate and apart from the other boilermakers inasmuch as his seniority was preserved by letter of agreement dated October 30, 1934, and reiterated in carrier's letter of July 16, 1936 addressed to former general chairman of boilermakers, Mr. J. H. Smith.

Bulletin No. 3, dated January 5, 1961, was posted furloughing one boilermaker, two boilermaker helpers and one welder (the claimant). The bulletin was effective at quitting time January 10, 1961.

The claimant has performed welding for all crafts at St. Louis shops for many years, and in view of the carrier's agreement of October 30, 1934, which was again confirmed in their letter of July 16, 1936, as well as the fact that there was and still is sufficient work to employ a welder on a full time basis, which is confirmed by spot checks made by carrier, the carrier acted arbitrarily when they furloughed the claimant.

had been laid off in force reduction at Gurdon, Arkansas. The claim for all time lost subsequent to being furloughed was sustained on a technical point involving the application of the time limit rule. When the carrier went back for an interpretation of the sustaining award, your Board said

"This Division holds that the claimants are entitled to be paid only what they lost, not that they should receive pay for every day not worked at Gurdon, Arkansas. To hold otherwise would be contrary to reason and precedent and would exceed the amount claimed."

Here again your Board held the monetary claim is limited to the wage loss less earnings from all other sources. The claimant in the instant dispute was able, we understand, to obtain employment at least for a part of the time he has been out of service which paid him more than he earned as a welder for the railroad. Such earnings, of course, and any other earnings, must be credited to the carrier in considering any wage loss suffered by claimant. The monetary claim is not supported by the Agreement or the awards of this Board and must be denied in any event.

There is no merit to this claim and it must be declined.

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.

Claimant was a welder at Carrier's Ewing Avenue Shops, St. Louis, Mo., with seniority date of May 12, 1923 on the Boilermakers' list. His seniority was made separate from the other Boilermakers and was preserved by a letter of agreement of October 30, 1934, which was reiterated by letter of July 16, 1936. (cf. P. 4 of Employees' Submission.) The gist of the letter agreement was that the application of Rule 25 (Seniority Rule) was not to disturb Claimant's seniority status which was to continue until he left the service for cause.

There is no class or craft of "Welder" on this Carrier.

Claimant was laid off in a force reduction, effective January 10, 1961 due to the decrease in the amount of welding work, according to the Carrier.

The Organization contends that this was an arbitrary determination by the Carrier in violation of the Current Agreement, and cites its Exhibits 1 through 8, attached to its submission, to illustrate that there was sufficient welding work at Ewing Avenue to retain Claimant.

The Letter of Agreement referred to preserved the seniority status of Claimant, but it did not, and could not, guarantee to him work which might cease to exist.

It must be remembered that Claimant performed no other work than welding. It is true that welding work is being performed at Ewing Avenue. The current agreement provides that mechanics shall do welding. There has been no showing that the welding which exists could have been given to Claimant without depriving mechanics of their work.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February, 1964.