

Award No. 4501
Docket No. 4285
2-MP-CM-'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. (Carmen)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the controlling agreement, particularly Rule 23(b) was violated when the Missouri Pacific Railroad Company gave Carman W. C. Haughn a seniority date of June 10, 1925.

2. That accordingly, the Missouri Pacific Railroad Company be ordered to correct the seniority roster at Coffeyville, Kansas and show Carman Haughn's seniority date as February 17, 1961, the date he transferred and commenced work at Coffeyville, Kansas.

EMPLOYEES' STATEMENT OF FACTS: Carman W. C. Haughn was employed by the Missouri Pacific Railroad Company, hereinafter referred to as the carrier, at Independence, Kansas on June 10, 1925, working continuously at that point until his job was abolished on December 21, 1960. Mr. Haughn was then permitted to go to Coffeyville, Kansas, which is another seniority point, after being furloughed at his home point, transferring under the provisions of Rule 23, reading in pertinent part:

"TRANSFERRING MEN WHO HAVE BEEN LAID OFF:
RULE 23(a) While forces are reduced, if men are needed at any other point, such men as are laid off by reason of force reductions will be given preference to transfer with privilege of returning to home station when force is increased, such transfers to be made without expense to the company. Seniority to govern all cases.

(b) Employes transferred under this rule shall acquire seniority at the point to which transferred from the date they commence work thereat except as modified in the note below, such seniority so established shall be forfeited when released at that point for any cause.

NOTE:

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the individual and not decide the case simply according to the wishes of the majority. The carrier feels strongly that Carman Haughn is entitled to a seniority date of July 20, 1922, at Coffeyville.

Fortunately, the junior carmen at Coffeyville have had sufficient work at that point to keep them all employed. Carman Haughn's return to Coffeyville did not cause a carman to be displaced and furloughed. Certainly the idea of permitting the senior man to work is in accordance with seniority principles.

There is no basis for the employes' protest either in the agreement or on the basis of fairness. The protest must 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 waived right of appearance at hearing thereon.

The Organization is here protesting the seniority date assigned to Carman W. C. Haughn at Coffeyville, Kansas.

Haughn was first employed at Coffeyville on July 20, 1922. In June of 1925 he successfully bid in the position for a one man point at Independence, Kansas. The controlling agreement at that time definitely confined seniority to the point where one was employed.

In 1936 the controlling agreement was amended by adding (b) to Rule 138 reading as follows:

“(b) Carmen bidding in jobs at an outlying station, their seniority will be confined to that station, but if the work terminates, they will then return to home station with their former seniority rights. Vacancies at outlying points shall be posted on all bulletin boards at each point coming under jurisdiction of the Master Mechanic.”

In 1960, the substance of the above quoted Rule was included in the new agreement dated June 1, 1960 as Rule 137 (c).

Meanwhile, Haughn continued to occupy the one man point at Independence until it was abolished on December 20, 1960, at which time he was furloughed. He went to work at Coffeyville on February 17, 1961.

The Organization contends that it is this latter date which fixed his seniority at Coffeyville and cite Rule 23 (a) of the controlling agreement in support of its contention.

We hold that Haughn did not transfer under the terms of Rule 23, and that the special rule, (now Rule 137 (c)) governs his case. It is true that when Haughn went to Independence there was no similar rule to 137 (c) until 1936. We find that the 1936 modification of the controlling agreement was negotiated with the status of situations then existing in mind, as well as future

situations, and it gave the men, such as Haughn, who were then working at one man points, the right to return to home point at their former seniority if the work at the one man point terminated.

AWARD

Claim 1: Overruled.

Claim 2: Seniority date to be corrected to July 20, 1922.

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

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of May 1964.