



**Award No. 4986**

**Docket No. 4936**

**2-PRR-MA-'66**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

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

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYES'  
DEPARTMENT, AFL-CIO (Machinists)**

**THE PENNSYLVANIA RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:**

1. That the Carrier violated the controlling agreement by improperly revising the Machinist Craft Roster at Hoboken Shop on January 22, 1964, said revision having changed the relative standing of certain employees whose names appear on specified roster.

2. That the Carrier be required to restore the Machinist Craft Roster at Hoboken Shop as it appeared in the previous year when posted at Hoboken Shop on January 14, 1963.

**EMPLOYES' STATEMENT OF FACTS:** As provided in Rule 3-F-1 of the agreement, the carrier is required to prepare a roster for each craft and class, on which will appear the names of all employees in their seniority district, and furnish a copy of said roster to the local chairman. It is the practice to prepare a separate roster for each craft in each seniority district.

The seniority standing of each employee whose name appears on such roster is determined in accordance with the provisions of Rule 3-A-1 of the agreement.

Such rosters are required to be posted in accordance with the provisions of Rule 3-F-2, which, for ready reference, we quote below:

"Rosters will be posted in places accessible to all employees affected and will be revised as of January 1st and posted in January of each year. An employee will have sixty (60) calendar days from date his name first appears on the roster to appeal his roster date or relative standing thereon, except that in case of an employee off on leave of absence, vacation, sickness, disability or suspension, at the time roster is posted, this time limit will apply from the date employee returns to duty. If no appeal is taken within

For all of the reasons given herein, the carrier submits that the employees' protest in this dispute is completely without merit and should be denied.

**III. Under The Railway Labor Act, The National Railroad Adjustment Board, Second Division, Is Required To Give Effect To The Said Agreements And To Decide The Present Dispute In Accordance Therewith.**

It is respectfully submitted that the National Railroad Adjustment Board, Second Division, is required by the Railway Labor Act to give effect to the said agreements, which constitute the applicable agreements between the parties, and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, Subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions". The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties to them. To grant the claim of the employees in this case would require the board to disregard the agreement between the parties hereto and impose upon the carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The board has no jurisdiction or authority to take any such action.

**CONCLUSION:** The carrier has shown that the inclusion of the names of the eight employees in question on the revised machinist craft roster for 1964 was in compliance with the requirements of Rule 3-E-1 (c); that such action in no way changed the claimants' seniority standing or violated Rule 3-F-3.

Therefore, the carrier respectfully submits that your board should deny the protest of the employees in this matter.

**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 employees 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 theory of the present claim is that Carrier violated Rule 3-F-3 of the controlling agreement when it included, without the Organization's consent, eight supervisory employees in the machinists' seniority roster posted on January 22, 1964. Carrier is required by Rules 3-F-1 and 3-F-2 to prepare and post such rosters in January each year, and in 1964 added the eight names in question although they had not appeared on the 1963 and some earlier rosters.

Rule 3-F-3 reads as follows:

"No change in seniority standing of any employe shall be made on the part of Management without conference and agreement with the Local Committee and General Chairman of the Craft. When such a change is made, the employe, whose seniority standing was the subject of the conference and agreement, shall be notified, in writing of the change."

Manifestly, to prevail under Rule 3-F-3, Petitioner must establish that the "seniority standing of any employe" has been changed by Carrier's inclusion of the eight supervisory employees in the 1964 roster.

While it is quite apparent that the relative position on the roster of the other employes was adversely affected by the addition of the eight supervisors to the list, it does not appear that, as a matter of substance, any change resulted in the actual seniority standing of any of the employes on the roster. This is so because the eight supervisors possessed seniority rights as machinists when they were appointed to supervisory positions, and under Rule 3-E-1, retained and continued to accumulate those rights while serving as supervisors. Rule 3-E-1 is sufficiently broad, when read in its entirety, to require that result, and although two of the eight supervisors left the machinists' ranks over twenty years ago, the record is barren of evidence that they had abandoned or lost seniority rights during that period. The burden of proof in that regard as well as on all essential elements of the claim rests on Petitioner.

While Rule 3-F-3 must be strictly complied with in any instance where seniority standing is modified, the record does not establish that any such change has taken place in the present case. The actual seniority standing of all employes concerned would have been precisely the same, whether or not the eight supervisors had been included in the 1964 roster, but Carrier saw to it, in line with its obligations under Rule 3-E-1(c), that the supervisors' names were listed in the first roster prepared after their absence had been called to its attention. The time limitation prescribed by Rule 3-F-2 is not applicable to the supervisors' situation and no other basis is perceived for depriving them of important seniority rights in this case.

In the light of the foregoing considerations, the claim will be denied.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of November, 1966.

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