



Award No. 5008

Docket No. 4932

2-D&H-CM-'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.

PARTIES TO DISPUTE:

THE DELAWARE AND HUDSON RAILROAD CORPORATION

**SYSTEM FEDERATION NO. 35, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

DISPUTE: CLAIM OF CARRIER:

1. Mario Loccisano was denied his seniority as a Four Year Mechanic when the carrier refused to allow him to displace a Non-Four Year Mechanic at Mechanicville Yard.

2. Mario Loccisano be paid for three days — August 30, 31 and September 1, 1962 at pro rata rate.

CARRIER'S STATEMENT OF FACTS: The claimant, Mario Loccisano, has been an employe of this corporation since November 21, 1947, when he entered our service as a laborer in our car department at Colonie, New York. He was subsequently employed in various capacities in the car department at Colonie, being temporarily upgraded to a position as car repairer on February 27, 1951. He subsequently continued to serve this carrier in various classifications such as box packer, coach painter, material man, coach repairer, and laundry man at Colonie, and acquired seniority as a car inspector and repairer at Colonie, New York on December 28, 1955.

Effective with the close of business on Wednesday, August 29, 1962, Loccisano was furloughed from his position as car repairer at Colonie, and did not work on August 30, August 31, or September 1, 1962.

Upon being informed that he was being displaced and furloughed as of the close of business on August 29, 1962, claimant Loccisano contacted the terminal foreman at Mechanicville, New York, advising that he wished to displace a non four-year carman working at that point, effective as of August 30, 1962. This requested displacement was not allowed by the carrier based on the fact that claimant Loccisano had no rights under the rules to displace at Mechanicville, New York, his seniority being confined to Colonie, New York, as provided by Rule 20 (a) of the May 1, 1942 agreement between the parties, as amended effective June 1, 1956.

"Name	Point of Furlough	Point of Displacement	Year
C. Nichols	Oneonta	Glenville	1955
B. Wright	Oneonta	Binghamton	1956
W. McNally	Oneonta	Binghamton	1956
J. McDonald	Carbondale	Hudson	1955
A. Bonomo	Carbondale	Hudson	1955
M. Cobb	Carbondale	Hudson	1955
A. Montonaro	Carbondale	Hudson	1955
J. McAndrew	Carbondale	Hudson	1955
W. Rhapchak	Carbondale	Hudson	1955
A. Ames	Carbondale	Hudson	1955
A. Wilcha	Carbondale	Hudson	1955
A. LePage	Colonie	Glenville	1957
W. Beale	Colonie	Glenville	1957
M. Raylinsky	Colonie	Mechanicville	1957
J. Beale	Colonie	Mechanicville	1958
W. Fairchild	Colonie	Mechanicville	1959
C. DeMarco	Saratoga	Mechanicville	1960
A. Montonaro	Hudson	Binghamton	1962
R. Watson	Albany-Colonie	Mechanicville	1962
T. Catanzarita	Port Henry	Whitehall	1958
R. Baker	Port Henry	Whitehall	1958"

The above list does not represent complete record of all the displacements made by four year carmen. Four year carmen involved in force reduction have displaced upgraded (non-four year carmen) through the past years since the date of the agreement and both the carrier and the organization have been in full accord with the interpretation placed on the memorandum of agreement, that a furloughed four year mechanic has the right to displace a non-four year mechanic at another point. In fact the carrier, on June 23, 1953, notified General Chairman C. H. Shaddock that it desired to retain the existing rules and practice in lieu of Articles II and III of the National Agreement of June 4, 1953.

Copies of the seniority rosters for Mechanicville and Colonie are attached and identified as Exhibit H. The Claimant's name is shown on Page 4 as a Car Repairer. Mr. Farrell is shown on Page 2 as a Car Repairer Helper.

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.

Carrier refused to permit Claimant, a four year mechanic, to displace a non-four year mechanic at Mechanicville Yard, New York. Claimant's only place of employment with Carrier has been at Colonie, New York, and it is abundantly clear from the record that his seniority was confined to that point and that Mechanicville is a seniority point separate and distinct from Colonie. Rules 5, 13, 18 and 20 dispel any doubt that, under the controlling agreement, point seniority and not system or area seniority must apply.

The rules are clear in this case and afford no justification for considering past service.

The claim lacks merit and must 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 9th day of December, 1966.