

Award No. 5465

Docket No. 5160

2-GN-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee William H. Coburn when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Great North Railway Company violated the current agreement when they promoted an unskilled employe to a Supervisory position in preference to the mechanics at Superior, Wisconsin Car Department;

2. And that accordingly the Carrier be ordered to pay the mechanics, as listed in Exhibit B the difference between the mechanics' rate and the foreman's rate from the date of this violation, October 19, 1964, until resolved.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the Carrier, maintains a Car Department at its most eastern terminal point, Superior, Wis.

Attached hereto as Exhibit B is the seniority roster of the mechanics, hereinafter referred to as the Claimants, who are employed in the Car Department at Superior, Wisconsin.

Superior is one of the Carrier's most important freight terminals and repair and inspection points as it is the most eastern terminal point on the line which extends from Superior in the east to Seattle, Wash. in the west.

The Superior Car Department's area of responsibility has always included performance of three general types of work. They are:

1. CAR INSPECTIONS

This work consists of examining freight and passenger cars for defects, coupling and uncoupling of air hoses, and inspection and testing of air brake appurtenances on trains departing from this terminal. The train yard works seven days per week, three shifts. The carrier employs an as-

6. Contrary to what the Organization alleges, nothing in the parties' collective bargaining agreements requires the Carrier to give the Organization detailed reasons or explanations of any sort for the supervisory appointments it makes. Nevertheless, the Organization in this case has been fully advised of the Carrier's one and only reason for appointing Nicoski to the position in question.

7. Contrary to what the Organization contends, Nicoski was "skilled" in carman mechanic's work at the time of his appointment. He does not hold a carman mechanic's seniority date, but this does not mean he is unskilled. In any event, the Carrier is not contractually obligated to appoint only "skilled" individuals to supervisory positions, so whether or not Nicoski is "skilled" is immaterial to the issue presented in this case.

8. The evidence of record does not support the Organization's charge that the Car Foreman at Superior favored Nicoski for promotion because of Nicoski's national origin.

9. Past awards of this Board have upheld the appointment of employees to exempt positions without regard to seniority under circumstances similar to those involved in the instant case.

For the foregoing reasons, the Carrier respectfully requests that the claim of the employees be denied.

All of the evidence and data contained herein has been presented to the duly authorized representative of the employees.

(Exhibits not reproduced.)

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.

This dispute occurred when on October 19, 1964, the Carrier appointed a carman helper to the excepted position of Assistant Car Foreman in its Car Department at Superior, Wisconsin. The appointee held no seniority on the mechanic's seniority roster.

The Employees assert that the aforesaid act of the Carrier violated Rule 1 of the basic agreement. It reads:

"Subject to decision by the Management as to qualifications for such promotion, mechanics in service will be considered for promotion to positions as Foremen."

The foregoing rule language, fairly and reasonably construed, grants to management wide latitude and authority in determining the qualifications of employees for promotion to the position of Foreman. The rule clearly does not restrict, in terms of relative ability or seniority, the free exercise of the carrier's managerial power to choose the employee it alone decides is best qualified for promotion, after having "considered" the qualifications of mechanics. Nor can the language reasonably be interpreted to mean that mechanics, as such, have a preferential right to promotion.

The record in this case establishes that the Carrier considered the qualifications of carman mechanics for promotion to assistant car foreman at Superior before the carman helper was finally selected and appointed. Four carman mechanics were offered the job, three of whom accepted it and then quit for personal reasons. The fourth declined to accept. In the selection of these men, the Carrier obviously had to give consideration to the relative abilities of other carmen mechanics on the seniority roster. And that is the only requirement placed upon the Carrier by Rule 8.

In view of the foregoing, the Board finds no violation of the agreement. The claim, therefore, 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 21st day of June, 1968.