



Award No. 6298

Docket No. 6173

2-N&W-BM-'72

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Boilermakers)**

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the carrier violated the terms of the current agreement when, on April 17, 1968, Mr. McPherson was hired as boilermaker and when, on April 14, 1969, Mr. Gooch was hired as a boilermaker, and neither of the above had served an apprenticeship as a boilermaker or had four years experience at the trade in the Railroad Industry.

2. That Messrs. McPherson and Gooch be removed from the Boilermakers Seniority Roster until such time they have each compiled four years experience at the Boilermakers trade in the Railroad Industry.

EMPLOYEES' STATEMENT OF FACTS: Elmer Bolton, Jack B. Robertson and Amos Hypes, hereinafter referred to as claimants, are Boilermakers, having served an apprenticeship at the trade. Claimants Bolton and Hypes served an apprenticeship at the trade in the Railroad Industry. Claimant Robertson served an apprenticeship at the trade in the Construction Industry.

McPherson, when hired as a boilermaker, had two years experience as an Iron Worker for Pali Brothers Inc., one year as lay out man and welder for E. I. DuPont Inc., and three years experience as Iron Worker and Foreman for Roberts & Shearer Inc.

Gooch had two years and three months experience as welder for Daniels Co., four months experience as welder for Kinsey Mfg. Co. and two years and two months experience as welder and machinist for J & W Machine Co.

The Virginian Railroad Agreement, specifically Rule 60, which is now a part of the merged Norfolk & Western Railway Co., under the jurisdiction of System Federation #16 is controlling.

T. M. McPherson established Boilermaker Seniority as of 4/17/68,
E. P. Bolton established Boilermaker Seniority as of 12/16/68,

See also Second Division Awards Nos. 1996, 2042 and others. Also, see Third Division Awards Nos. 2676, 5418, 5941, 6225, 6378, 6379, 6402, 6748, 6824, 6844, 6885, 6964, 7199, 7200, 7226, 9609, and others.

In conclusion, the Carrier respectfully submits that the facts and evidence presented in Carrier's submission and hereinafter shown as a summary clearly shows the claim is not supported and should be denied.

1. The Board does not have jurisdiction.
2. The Organization has not and cannot establish a violation of Rule 60 or any other rule of the current agreement.
3. Current agreement, in particular Rule 60, supports the Carrier's position.
4. The petitioner has not and cannot establish a violation of the current agreement.
5. The Organization asks this Board for a new rule.
6. Management has certain rights and prerogatives to manage its affairs where not restricted by agreement. See Second Division Award 3862.
7. The Organization has not and cannot sustain the burden of proof which rests upon them. See First Division Award 18620, Second Division Award 3246, Third Division Award 6359 and others.

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 dates of the alleged violations of the Agreement are April 17, 1968 and April 14, 1969. No claim was made until January 20, 1970.

It is apparent that this claim was not handled on the property in accordance with the applicable Agreement.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of June 1972.

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