

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 41, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)
THE CHESAPEAKE AND OHIO RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES.—1. Is John Long entitled to accumulated seniority as machinist at Rainelle, W. Va., from May 16, 1925, the date assigned and classified as engine inspector by the Sewell Valley Railroad?

2. Is Ben F. Neal entitled to accumulated seniority as machinist at Rainelle, W. Va., from August 26, 1926, the date assigned and classified as engine inspector by the Sewell Valley Railroad?

JOINT STATEMENT OF FACTS.—The Chesapeake and Ohio Railway Company took over control of the Sewell Valley Railroad, July 1, 1927.

Rainelle, W. Va., location of engine terminal and shop yards.

John Long and Ben F. Neal are employed at Rainelle as engine inspectors for the Chesapeake and Ohio Railway Company, classified as and paid the rate of machinists.

Record of Messrs. Long and Neal is:

"John Long—

"Employed by C. & O. Railway as locomotive fireman—Sept. 16, 1889.

"Firing Train 33 when break-in-two occurred in Sewell, W. Va., yard limits—June 17, 1891, in which accident he lost his left hand, and sustained other injuries.

"Out of railroad service for about 3 years, recovering from injuries.

"Employed in Roundhouse, Hinton, W. Va., from about 1894 to about 1897 (Do not have exact dates).

"Account of bad health, transferred to Quinimont, W. Va., as engine watchman, about April 1, 1897.

"Left service of C. & O. Railway about March 1909.

"Employed by Sewell Valley Railroad as engine watchman and hostler—August 14, 1909.

"Appointed road foreman of engines and assistant trainmaster by the Sewell Valley Railroad, about Jan. 1, 1920.

"Appointed assistant master mechanic, Sewell Valley—Aug. 16, 1924.

"Position of assistant master mechanic abolished—assigned and classified as engine inspector—May 16, 1925.

"When the Sewell Valley was taken over by the C. & O., Mr. Long's classification was changed from engine inspector to machinist, but his duties, namely, inspecting locomotives and tenders and performing a small amount of other machinists' work, and other light duties assigned him by the supervisors, were not changed.

"Ben F. Neal—

"Employed by Sewell Valley Railroad as locomotive engineer—Sept. 18, 1922.

"Disqualified for service as engineer, and transferred to position and classified as engine inspector—Aug. 27, 1926.

"When the Sewell Valley was taken over by the C. & O., Mr. Neal's classification was changed from engine inspector to machinist, but his duties, namely, inspecting locomotives and tenders and performing a small amount of other machinists' work, and other light duties assigned him by the supervisors, were not changed."

POSITION OF EMPLOYEES.—The former Sewell Valley Railroad had no agreement with the shop crafts; therefore, engine inspection was not recognized as machinists' work, for which service they paid a rate below that of the machinists' rate of pay as follows:

"In 1925, the machinists' rate was 60¢ per hour; inspectors' rate—50¢ per hour.

"In 1927, when the road was taken over by the Chesapeake and Ohio, machinists were paid 75¢ per hour; inspectors—62½¢ per hour."

When the C. & O. Railway acquired control of the S. V. Railroad, July 1, 1927, the two men in question, John Long and Ben Neal, were classified as machinists, and paid the machinists' rate of pay, and placed on the seniority roster with standing as machinists from July 1, 1927. At that time John Long had only been assigned as an inspector for 2 years 1½ months, and Ben Neal for a period of 10 months. As the employees were on the job when the C. & O. acquired control, the committee overlooked the fact that they had not had the necessary four years' required experience before being classed as a machinist with the understanding that they would be placed on seniority roster as machinists only from the date their classification was changed and they received the machinists' rate of pay, July 1, 1927; which was in line with the established practice on the C. & O. Railway, and also in accord with the decisions handed down by Government Tribunals, which is supported by exhibits attached. The committee realized that they were stretching a point when they agreed not to protest their required number of years experience, which was in sympathy to a great extent for the old men. They were carried on seniority roster as of July 1, 1927, up to the latter part of 1931, and no protest made until John Long was suspended, when he personally carried his case to management; management taking the position that Long and Neal held rights as machinists from the date they were placed on inspection job, notwithstanding the fact that they had not had any experience as machinists and the work was not recognized as machinists' work until after the road was taken over by the C. & O. Railway. * * *

POSITION OF CARRIER.—John Long was employed by The Chesapeake and Ohio Railway Company, September 16, 1889, as locomotive fireman, and was firing train 33 when break-in-two occurred in Sewell, W. Va., Yard Limits, June 17, 1891, in which accident he lost his left hand and sustained other injuries. Mr. Long was out of railroad service about 3 years while recovering from his injuries. About 1894 he was given employment in Hinton, W. Va., roundhouse. On account of bad health, he was transferred to Quinnimont, W. Va., as engine watchman, in April, 1897. He left the service of the Chesapeake & Ohio March, 1909; employed by the Sewell Valley Railroad as engine watchman and hostler, August 14, 1909; appointed road foreman of engines and assistant trainmaster of the Sewell Valley Railroad, January 1, 1920; appointed assistant master mechanic, Sewell Valley, August 16, 1924; transferred from assistant master mechanic to the classification of engine inspector, May 16, 1925, when a general reclassification and rearrangement of forces was made in the Mechanical Department, Sewell Valley Railroad.

Ben F. Neal was employed at Rainelle, W. Va., by the Meadow River Lumber Company, in 1910, as locomotive fireman, where he learned to be locomotive engineer. Sometime in 1920 or '21 he took service with the Greenbrier and Eastern Railroad as engineer, and with the Sewell Valley Railroad as engineer, September 25, 1922. He was disqualified as locomotive engineer by the Sewell Valley Railroad, August 27, 1926, and assigned to inspect locomotives, under the classification engine inspector.

July 1, 1927, The Chesapeake and Ohio took over the Sewell Valley Railroad under lease, and applied the rates of pay to each employe taken over with the Sewell Valley in accordance with the work each was performing, which is and has been the C. & O. practice.

Messrs. Long and Neal were carried on the Sewell Valley Railroad payrolls as engine inspectors, for which class of work the Chesapeake and Ohio pay machinists' rate, generally under the classification of machinist or machinist-inspector, which designations are synonymous, and these two employes were classified and paid machinists' rate, and perform the work of engine and tender inspecting, and such machinists' work as the company assigns them to.

Messrs. Long and Neal were suspended in force reduction, May 9, 1931, on the basis of seniority as of July 1, 1927. Mr. Long protested his suspension, and claimed seniority from May 16, 1925, the date he was assigned as locomotive inspector by the Sewell Valley. After making an investigation, the company sustained Mr. Long's claim, and set his seniority date May 16, 1925, and Mr. Neal's, August 27, 1926, the respective dates they were assigned to inspecting locomotives by the Sewell Valley, which conforms to past practice.

This was objected to by General Chairman, Machinists, Gorman, who took the ground that Messrs. Long and Neal's seniority should date from July 1, 1927, the date the C. & O. took over the Sewell Valley Railroad, and applied its (C. & O.) rates of pay. * * *

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.

The parties to said dispute were given due notice of hearing thereon.

There was no agreement on the Sewell Valley Railroad, and engine inspectors were not recognized as machinists, nor paid the machinist rate prior to July 1, 1927, the date the Chesapeake and Ohio Railway Company took control of that property.

Therefore, since Long and Neal were not classified as machinists nor paid the machinist rate, they could not establish machinist seniority under the Chesapeake and Ohio Railway's Shop Craft Agreement.

AWARD

Question No. 1.—No.

Question No. 2.—No.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 28th day of April, 1936.