

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 69, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)
FLORIDA EAST COAST RAILWAY

DISPUTE: CLAIM OF EMPLOYEES.—Seniority rights of the following employees, and pay for all time since they were cut off, and younger men retained in service.

Bowden Car Department

Name	Date employed	Date furloughed
C. O. McClure.....	Apr. 6, 1925	May 25, 1933
R. F. Trice.....	May 7, 1925	May 25, 1933
J. D. Platt.....	Aug. 4, 1925	May 25, 1933
W. L. White.....	Dec. 10, 1928	May 17, 1933
R. A. Williams.....	Dec. 6, 1931	May 17, 1933
A. T. Buchanan.....	Jan. 19, 1933	May 17, 1933

New Smyrna Car Department

A. R. Comer.....	Aug. 4, 1922	June 30, 1930
J. F. Tumblium.....	May 25, 1925	Aug. 31, 1933
R. J. Stevens.....	Oct. 11, 1929	Aug. 31, 1933

POSITION OF EMPLOYEES.—On November 19, 1935, a new agreement between the Florida East Coast Railway and System Federation No. 69 was completed and signed by the interested parties.

Prior to completing this agreement much confusion and dissatisfaction prevailed due to the lack of understanding or information covering seniority dates of many employees.

During the discussion of the seniority rules the superintendent motive power and machinery wanted to inject a clause providing that if an employe was furloughed and not called back within twelve months he would forfeit his seniority. Our committee refused to agree to such a provision and in explaining the railroad's position the supt. motive power and machinery stated that some years ago the Florida East Coast Railway had a very large force of employes in the shop crafts and that a large group of those since furloughed had moved or engaged in other occupations and many of them could not be located, therefore he felt the company should not be compelled to continue to list such employes on the seniority roster indefinitely. After consideration of that position we reached the following understanding:

That the company would compile a new seniority list to the best of their ability, same to be posted by December 1, 1935, and remain posted until January 1, 1936, with notice attached. That any omissions or corrections claimed by employes must be made to the foreman in writing, with copy to the committee. It was further understood that after the expiration of this period the general committee would meet the superintendent of motive power and machinery to adjust so far as possible the claims filed. The seniority list and notice was posted about December 6, 1935, and on January 10, 1936, the secretary of System Federation No. 69 wrote the superintendent motive power and machinery asking that he arrange a date to meet the committee. In reply this official wrote the president of the Federation in which he advised that he

hundreds of former employes, many of whom had been hired during the Florida boom when labor was very scarce and were deficient and unreliable as mechanics, it was agreed that only such employes as were in service at the time the agreement was signed would be carried on the seniority lists. An understanding to this effect was sent out dated January 22, 1934, and was confirmed by the employes' committee on March 16, 1934.

The agreement with the shopmen's union which was effective October 16, 1933, was taken over and adopted by System Federation No. 69 on September 22, 1934. The reduction of the seniority roster had already been disposed of by the committee of the shopmen's union in the agreement reached on January 22, 1934, and it is the position of the railway that this agreement of January 22, 1934, was valid when the agreement was taken over by System Federation No. 69, and established a basis upon which employes at work at that time should be placed on the seniority lists.

In the negotiations with System Federation No. 69 in regard to the seniority of employes, the railway made every attempt to reach a settlement. On March 26, 1935, a bulletin was posted showing the seniority dates of the employes then in the service which gave the employes 60 days in which to file complaints. After the expiration of this time limit the seniority lists were corrected and sent out for posting on August 8, 1935. At the request of the committee at the time of negotiating the present agreement, the railway gave another opportunity to correct the seniority dates, sending out complete lists to the general chairman on December 6, 1935.

All of the cases brought up as a result of our negotiations have been satisfactorily adjusted except the nine men involved in the present case. In order to reach a settlement without the necessity for taking this case to the Board, the railway made an offer to compromise with the committee by offering, that in case there was sufficient work to bring these men back to work within one year, they would be given their original seniority rights. This would have the effect of allowing these men the opportunity to exercise their seniority rights over younger men when forces were again reduced. The committee, however, would not accept the railway's offer. In the meantime, during the perishable season of 1935-36, it became necessary to increase the forces at Bowden car shop, and six carmen, who had formerly worked at St. Augustine, were sent to Bowden car shop to take care of this increased work. To this arrangement the committee made no objection whatever. If they considered the men involved in this dispute had seniority rights at Bowden, exception should have been taken at the time this set-up was made, and the fact that they took no exception indicated that they did not consider that these men had any seniority rights at Bowden.

Also, during the negotiations, no claim whatever was ever made for any back time for any of the men involved in this case, this part of the claim having been added in submitting the case to the Board.

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 is no evidence of an agreement which would deprive these men of their seniority. A number of men who were in the same status as the men involved in this dispute have had their seniority restored.

AWARD

Messrs. C. O. McClure, R. F. Trice, J. D. Platt, W. L. White, R. A. Williams, A. T. Buchanan, A. R. Comer, J. F. Tumblin and R. J. Stevens shall have their original seniority restored.

Claim for wage loss denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 2nd day of October, 1936.