

Award No. 252

Docket No. 271

2-D&SL-CM-'38

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 47, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

THE DENVER AND SALT LAKE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: That H. G. Leblow, painter, be compensated for four (4) days' pay, a total of twenty-four dollars (\$24.00), account of not receiving the required notice in force reduction.

EMPLOYES' STATEMENT OF FACTS: Mr. Leblow was employed as painter at Utah Junction, with hours of service from 8:00 A. M., to 4:30 P. M., for the Denver and Salt Lake Railway Company, from March 21, 1936, to November 20, 1937. On November 20, the carrier abolished the job of painter foreman, held by Mr. H. F. King, a senior to Leblow. The general car foreman notified King on November 20, at 3:00 P. M., that his position of foreman was abolished. Leblow was notified by the car foreman at 4:10 P. M., the same day, that he was bumped by King. Leblow, therefore, was out of service with only twenty minutes' notice.

On January 2, Mr. Peterson, master mechanic, made a verbal request that Leblow and his representative appear in his office at 1:20 P. M., January 4, for the purpose of settling with Leblow. Upon arriving at the master mechanic's office, we found present the general superintendent, the master mechanic, and the general car foreman. We can see but one reason for this; that is, for the purpose of intimidation.

The general superintendent made a statement for the employees' representative of his own wording; the wording of the employees' representative did not suit the carrier. Most of the objections made by the employees' representatives were not recorded in the minutes.

POSITION OF EMPLOYES: This claim has been handled in accordance with the established practice of handling grievance cases on the Denver and Salt Lake System. We contend that Rule 16 of the current agreement between the Denver and Salt Lake System and System Federation No. 47 has been violated by the carrier. We further contend that Rule 9 (j), mentioned in the minutes of the conference held in the office of Master Mechanic Peterson on January 4, 1938, has no bearing on this case, for the reason that Leblow was removed from service, thereby reducing the force by one man, as shown by the seniority roster, a copy of which is marked Exhibit A and submitted as a part of this dispute.

Furthermore, that the carrier does admit that it was a reduction of the general force by one man, but will not admit that the painters' force was reduced. The carrier contends that there were two painters before the job of painter foreman was abolished and that after King bumped Leblow they

position stated in the foregoing was correct. It will furthermore be noted from Exhibit L that Painter Leblow, the claimant in this case, admitted for the record that he was told at 4:10 P. M., November 20, that he would be displaced by Mr. King, a senior, 8:00 A. M., November 22.

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 waived right of appearance at hearing thereon.

The record shows that on November 20, 1937, position of Painter Foreman H. F. King was abolished and he, in exercise of his seniority rights, displaced Painter H. G. Leblow, who was furloughed.

Mr. Leblow was notified between 3:00 and 4:00 P. M., November 20, that he was displaced by Painter Foreman King, and that he would be laid off that day.

Rule 16 (b), which the employes allege is violated, reads:

“(b) Forty bulletin hours notice will be given before hours are reduced. If the force is to be reduced, thirty-two bulletin hours notice will be given the men affected before reduction is made, and lists will be furnished the local committee.”

Mr. Leblow was not given thirty-two bulletin hours before being furloughed, as required by this rule.

AWARD

Claim of employes sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 26th day of July, 1938.