

**Award No. 298**

**Docket No. 319**

**2-M&St.L-MA-'39**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 15, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. (MACHINISTS)**

**THE MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** Is Matt Talty, machinist, Cedar Lake shops, Minneapolis, Minn., Minneapolis & St. Louis Railroad Company, entitled to pay for time lost from November 7, 1935, to January 6, 1936?

**EMPLOYEES' STATEMENT OF FACTS:** Machinist Matt Talty, who was regularly employed as machinist by the Minneapolis & St. Louis Railroad Company, at its roundhouse at Watertown, South Dakota, was laid off in a reduction of force. Rule 27, paragraph 1, of the agreement effective November 12, 1934, between the Minneapolis & St. Louis Railroad Company and System Federation No. 15 reads as follows:

"In reducing forces, laid off employees will upon application, if men are needed at other points, be given permission to transfer to such points with the privilege of returning to home station when force is increased, such transfer to be made without expense to the Company. Seniority to govern."

In accordance with the above rule, Matt Talty secured employment in the Cedar Lake shops, Minneapolis, as machinist and started to work there July 16, 1935.

Subsequently, Eric Darwitz, machinist laid off at Monmouth, Ill., started to work in Minneapolis in the application of the above rule on September 17, 1935.

On or about November 1, 1935, notice was posted that there was to be a reduction of force and Machinist Matt Talty was given four work days notice that he was to be laid off and Machinist Eric Darwitz, who was furnished employment in Minneapolis at a later date than Machinist Matt Talty, was retained in service. This lay-off affected only one machinist.

**POSITION OF EMPLOYEES:** In the application of the agreement in effect with the Minneapolis & St. Louis Railroad Company, a laid off machinist had a right to exercise his seniority as follows:

1. After being laid off in reduction of force he has the right to return to service at the point laid off in accordance with his seniority among all machinists at the point laid off.
2. After being laid off in reduction of force he has the right to secure employment at any other point on the line where a vacancy occurs, or a new position is created in accordance with his seniority among all machinists laid off on the entire line at the time the vacancy occurs, or new position is created.

Machinist Talty again returned to work at Minneapolis, January 6, 1936, which was the first day the shops opened after our agreement to accept the interpretation of the first paragraph of Rule 27, which general chairman submitted to this office.

It is our contention that no penalty should be assessed against the carrier for alleged violation of a rule prior to the time of an agreed upon interpretation of it in accordance with the provisions of the third paragraph of Rule 145 of the agreement, which reads as follows:

"Interpretations of the provisions of this Agreement can only be made by agreement between the Minneapolis & St. Louis Railroad and the general committee representing the organizations parties hereto, or in accordance with the provisions of the Railway Labor Act."

**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.

The parties were in disagreement as to the proper application of the rules involved.

They reached an understanding on December 31, 1935.

#### AWARD

Understanding reached will be applicable from and after December 31, 1935.

Pay for time lost prior to December 31, 1935, is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 20th day of January, 1939.