

**Award No. 385**

**Docket No. 395**

**2-N&W-MA-'39**

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. OF L. (MACHINISTS)**

**NORFOLK AND WESTERN RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:** That W. M. Mahafey should have a seniority date of September 16, 1924, according to Rule 30.

**EMPLOYES' STATEMENT OF FACTS:** W. M. Mahafey was employed as machinist helper, October 10, 1922, helped machinist until January 1, 1923, when he was changed to blacksmith helper, helped blacksmiths until September 16, 1924, when he was changed to machinist helper.

**POSITION OF EMPLOYES:** Following is the service record of W. M. Mahafey, machinist helper, Electrification, Bluefield, W. Va.

Employed as laborer .....	1/12/18
Changed to helper pipefitter.....	3/ 1/18
Changed to helper machinist.....	6/16/18
On strike .....	7/ 1/22
Re-employed as helper machinist.....	10/10/22
Changed to helper blacksmith.....	1/ 1/23
Changed to helper machinist.....	9/16/24
Promoted to drill press man.....	10/ 1/26

(Drill press man is machinist helper, Rule 56)

Rule 30, Agreement effective 12/1/22. (All superseding agreements have same Rule.)

"Seniority of employes in each craft will be confined to the Mechanical Department at the point employed, and separate seniority rosters maintained as follows:

Machinists,  
Machinist Helpers,  
Boilermakers,  
Boilermaker Helpers,  
Blacksmiths,  
Blacksmith Helpers,  
Sheet Metal Workers,  
Sheet Metal Worker Helpers,  
Electrical Repairmen,  
Electrical Linemen,  
Other Electrical Workers,  
Electrical Helpers,  
Patternmakers,

On January 1, 1923, a man was needed to help the blacksmith until a blacksmith helper could be secured. W. M. Mahafey was placed with the blacksmith temporarily, and on January 3, 1923, W. R. Perry, duly authorized committeeman for the machinists at Bluestone, West Virginia, called on General Foreman R. J. Cousins and requested that Mahafey's seniority be protected. During this discussion it was agreed between the committee and General Foreman R. J. Cousins that Mahafey would retain his seniority as machinist helper after he had been relieved of helping the blacksmith. An agreement, in the form of a memorandum, was made and placed in the general foreman's files at Bluestone, West Virginia, which manner of recording was consistent with the practice in effect at that time. A copy of this memorandum is submitted as Exhibit A.

The employes contend that this memorandum is not valid because it carries no signature. The carrier asserts that this memorandum is valid because it is consistent with the practice in effect at that time. Further, that on September 16, 1924, W. M. Mahafey was restored to the machinist helpers' seniority roster as per the agreement, which restoration was accepted by the mechanical department association committeemen, and that no complaint was registered concerning his seniority until September 14, 1938, when it was raised by the new machinists' committee after the right of representation of the machinists employed by the carrier was given to the Federated Shop Crafts. The carrier asserts that the question of seniority of W. M. Mahafey was agreed to between the management and representatives of the organization existing at that time; that the settlement constituted an agreement disposing of the case and that your Board is without authority to set it aside.

The principle involved in this case is the same as was involved in the case of C. L. Currin, pipefitter, East Radford, Virginia, covered by Docket No. 164, Award No. 186 of this Division. The carrier calls the Board's attention to the opinion of the Division in which it states, in part:

"\* \* \* The security of labor organizations rests on the principle of sustaining decisions and actions of the duly authorized representatives of labor groups. Were we to begin reversing such decisions and making exceptions to this principle, we would be establishing precedents that would be detrimental to and that would eventually destroy the very structure of collective bargaining. \* \* \*"

**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.

Rule 30 of present agreement and same rule in former agreements provide for separate seniority for craftsmen or helpers in each craft.

W. M. Mahafey last became a machinist helper on September 16, 1924.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 29th day of September, 1939.