

Award No. 459

Docket No. 496

2-B&M-MA-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYEES: That George A. Miller lost his seniority rights at Billerica shops by leaving his assignment at said shops and engaging in work at the Gould Coupler Corporation at Depew, New York, without first making joint arrangement with management and committee.

That all machinists who hold a seniority date prior to the date that Miller went to Gould Coupler Corporation are now senior to Miller at Billerica shops.

JOINT STATEMENT OF FACTS: The name of George A. Miller is shown on the Billerica shop seniority roster for the year 1939 as a machinist and is the twenty-fourth item. Entrance service date—August 5, 1922. Present rating—August 5, 1922. He is a machinist and has been employed as such since that date.

In May 1939, Mr. Miller was sent to the Gould Coupler Corporation at Depew, N. Y., to inspect castings. No arrangement was made with local committee for the protection of Miller's seniority.

The committee requested the management to remove Miller's name from the seniority roster, which request was declined.

POSITION OF EMPLOYEES: Rule 16 of the working agreement provides for the protection of an employee's seniority while working **elsewhere:**

"LEAVE OF ABSENCE

Rule 16. When the requirements of the service will permit, an employee will be granted leave of absence under reasonable circumstances, but must make written application in duplicate to the official in charge, who will furnish one copy to the local committee.

If renewal is desired, written application in accordance with the foregoing requirements will be made prior to the expiration of the leave of absence previously granted. An employee, while on leave of absence, who engages in other work, will forfeit his seniority unless special arrangements have been made with the proper officials and the local committee."

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.

It has been the practice for many years for a carrier to use its employes for the purpose of inspecting equipment and supplies being built or furnished by an outside agency at the factory or plant of the agency.

AWARD

When a situation arises, such as is involved in this case, proper leave of absence will be arranged so that controversy will not arise later.

Claim in this case is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 22nd day of May, 1940.