

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. (MACHINISTS)

THE DELAWARE, LACKAWANNA AND WESTERN  
RAILROAD COMPANY

**DISPUTE: CLAIM OF EMPLOYEES:** That Patrick Coyle, machinist, is entitled to receive compensation for pay loss suffered by omission of the Delaware, Lackawanna and Western Railroad Company, hereinafter called the Railroad Company, to recall him to service at Secaucus enginehouse on January 13, 1939, when instead it extended preference to James Millerchip, machinist, who on September 20, 1938, summarily quit his assignment at Secaucus enginehouse and accepted a position at Kingsland locomotive shops.

**EMPLOYEES' STATEMENT OF FACTS:** For some time prior to September 10, 1938, both James Millerchip and Patrick Coyle were under furlough as machinists under the terms and provisions of Rule 22 of shop-crafts' agreement covering the railroad company's motive power and equipment department, and on or about said September 10th, Mr. Millerchip, who was the senior machinist of the two at the time, was recalled to service and the furlough that affected him as of August 31, 1938, terminated.

Under date of September 20, 1938, Millerchip quit his last mentioned assignment at Secaucus enginehouse and accepted what the railroad company averred to be a temporary position it had created at its Kingsland locomotive shops.

On date of January 13, 1939, Machinist Millerchip, upon the railroad company's motion and direction so to do, returned to service at Secaucus enginehouse and there resumed work as a machinist, Machinist Coyle continuing, but under protest by the machinists' local committee, on furlough.

Rule 22 of the existing agreement, insofar as it relates to the case here concerned, reads:

"Rule 22. When it becomes necessary to reduce expenses, the hours may be reduced to forty (40) per week before reducing the force, (except at Locomotive Back Shops and Car Program Shops, the hours may be further reduced by agreement with the General Committee of employes). When the force is reduced, seniority as per Rule 26 will govern, the men affected to take the rate of the job to which they are assigned.

Twenty-four (24) hours notice will be given before hours are reduced. If the force is to be reduced, four (4) days notice will be given the men affected before reduction is made, and lists will be furnished the Local Committee.

elsewhere he would not accept employment except a permanent position. It has been the recognized practice under the agreement with Petitioner dated November 1, 1935, that an employe on furlough who refused any work at his home point lost his seniority. It is the railroad company's contention that by refusing to fill temporary vacancies and by serving a written notice on September 20th upon the railroad company, Patrick Coyle relinquished his seniority rights.

For the reasons above stated,—

First, that there has been no violation of Rule 15.

Second, that there has been no compliance with Rule 30.

Third, that Coyle lost his seniority when he refused to take temporary positions.

*the railroad company contends that this claim should be dismissed.*

**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.

None of the parties involved in this case exercised the care that should have been exercised in order to make the various provisions of the agreement flow properly to the end that no complications could arise.

It is evident there was lack of understanding of the proper application of the agreement, which should not again occur.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 24th day of July, 1940.