

Award No. 493

Docket No. 482

2-CI&L-CM-'40

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 32, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

CHICAGO, INDIANAPOLIS & LOUISVILLE RAILWAY

DISPUTE: CLAIM OF EMPLOYEES: That S. D. Baker be restored to service at Clay City, Indiana, and paid for all time lost at the rate of 78¢ per hour, eight (8) hours per day, and six (6) days per week, from April 14, 1939, until restored to service on account of being furloughed April 14, 1939, in violation of Rules 30, 26, and paragraph B of the miscellaneous rule, page 24 of current agreement; also violation of Section VI of the Railway Labor Act, the violation being the assignment of carmen from other seniority points to do the work formerly performed by Baker.

EMPLOYEES' STATEMENT OF FACTS: Samuel D. Baker was employed by the Chicago, Indianapolis and Louisville Railway Company as a carman at Midland, Indiana, on August 1, 1918, and was transferred and reassigned to Clay City on October 1, 1937, to fill a vacancy at that point. His duties consisted of inspecting and making necessary repairs to all cars in interchange with other railways at Clay City and inspecting and making necessary repairs to all cars set out for defects from Howesville, Indiana, to Cataract, Indiana, a distance of about twenty-nine miles. His duties also included inspecting, repairing and servicing of all cars set for loading at Clay City and at the various large coal mines of which there are many in that territory. However, Clay City was his headquarters and seniority point. This place has been a seniority point for carmen for many years. Under date of April 8, 1939, S. D. Baker received a notice from the master mechanic advising him that at the close of his work day on April 14, 1939, he would be laid off indefinitely in a reduction in force. (See Exhibit A)

POSITION OF EMPLOYEES: We contend in this case that the seniority rules of our federated agreement have been violated inasmuch as the master mechanic issued a letter of instructions to his supervisory forces at the various points under date of April 11, 1939, advising them that other carmen than Baker would be assigned to do any necessary car work at Clay City and in that territory formerly covered by Baker. (See Exhibit B)

Rule 30 of our federated agreement only provides for point seniority for carmen and reads as follows:

"Rule 30. Seniority of employes in each craft covered by this agreement shall be confined to the point employed in each of the following departments:

Maintenance of Way (bridge and building where separate from
Maintenance of Way Department)

"There is no question but that you were within your rights in making such a reduction or abolition of such positions insofar as our agreement or contract is concerned, providing of course that the work is abolished along with the position."

Since the volume of work at Clay City has diminished to an average of two (2) minutes per work day (see Exhibit 7 and paragraph 8 of "Carrier's Statement of Facts"), the position in fact ceased to exist and the management's notice to Mr. Baker of April 8, 1939, was merely an official recognition of that fact, and by the official abolition of the position, Clay City in reality ceased to constitute a seniority point.

The carrier submits:

1. There has been no violation of Rules 26, 30 or paragraph B of miscellaneous rule, page 24, of current agreement.
2. There has been no violation of Section 6 of the Railway Labor Act.
3. Position was discontinued in accordance with the terms of the agreement, and in the same manner as in prior years.
4. The present method of performing the work does not constitute a violation of the agreement.
5. An award should be rendered in favor of the carrier.

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 carmen's work in the instant case, that was performed by carmen senior to the claimant on the consolidated roster, disclosed by the record and hearing "The inspection of cars and carmen's work in the Clay City territory was put under the jurisdiction of Midland and placed in the Midland seniority district by mutual agreement with the General Chairman of the carmen, Mr. Henry Jones, on October 1, 1937," was not a violation of the agreement.

The evidence of record does not justify the claim of the employes.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 31st day of July, 1940.