

Award No. 499

Docket No. 494

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 AND LOUISVILLE RAILWAY
COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That C. S. Scott be restored to service at New Albany, 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 October 9, 1939 until restored to service on account of being furloughed in violation of Rules 30, 26 and paragraph "B" of Miscellaneous Rule, page 24, of the current agreement; also violation of Section VI of the Railway Labor Act, the violation being the assignment of carmen from other seniority points, and other than carmen, to do the work formerly performed by Scott.

EMPLOYEES' STATEMENT OF FACTS: C. S. Scott has been employed as a car inspector and repairer since October, 1908, at New Albany, Indiana, by the Chicago, Indianapolis & Louisville Railway Company.

His duties consisted of inspecting and making necessary repairs to all cars coming through interchange in that city from the Southern, B. & O. and Pennsylvania Railroads, inspecting and repairing all cars coming into New Albany proper, inspecting, servicing and preparing all freight cars for loading.

Servicing of cars consists of cleaning cars, removing all blocking, nails in floors and other obstructions left in cars by former shippers.

Coupling up and testing air brake equipment on outbound cuts of cars made up by yard engine at New Albany, inspecting box cars for leaky roofs and repairing same. Doing maintenance work on buildings including freight house, depot and other company buildings, also on other buildings owned by the railroad and rented to other concerns.

Making repairs to any cars set out of trains for defects at all stations between New Albany and Salem, Indiana, a distance of thirty-five miles north of New Albany.

Under date of April 8, 1939, C. S. Scott 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 of force; also for him to leave all keys to buildings with the agent at New Albany. (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 vari-

Since the volume of work at New Albany has diminished to an average of twelve (12) seconds per work day (See Exhibit No. 1 and paragraph 8 of "Carrier's Statement of Facts"), the position in fact ceased to exist and the management's notice to Mr. Scott of April 8, 1939, was merely an official recognition of that fact, and by the official abolition of the position, New Albany in reality ceased to constitute a seniority point.

The carrier submits:

There has been no violation of Rules 26, 30 or paragraph B of Miscellaneous Rule, page 24, of current agreement.

There has been no violation of Section VI of the Railway Labor Act.

Position was discontinued in accordance with the terms of the agreement, and in the same manner as in prior years.

The present method of performing the work does not constitute a violation of the agreement.

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 employee or employees involved in this dispute are respectively carrier and employee 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.

Car Inspector C. S. Scott was properly furloughed, but his furlough did not destroy his seniority rights. When the work requirements of a seniority point or assignment have decreased to the extent that the services of even one employee are not required full time, the agreement permits negotiation to protect the interests of the respective parties and prevents any arbitrary change.

The Division is of the opinion that each of the parties should respect the rights of the other and that an equitable disposition can be made by the representatives of the parties. The Division remands this question to the parties directing that they make an earnest effort to effect an equitable adjustment of the dispute.

AWARD

Claim remanded without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

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