

Award No. 588

Docket No. 617

2-DL&W-EW-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)**

**THE DELAWARE, LACKAWANNA AND WESTERN  
RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:** That Roscoe Hirlinger, electrician, employed at the Binghamton enginehouse, was unjustly dealt with and provisions of agreement were violated account of being furloughed June 11, 1940. That he be returned to Binghamton enginehouse and compensated for all time lost.

**EMPLOYES' STATEMENT OF FACTS:** That prior to October 30, 1939 the carrier employed two (2) electricians, namely Mr. Leon Brown and Edwin Rall; Rall employed from 7:00 A.M. to 3:00 P.M., and Brown from 3:00 P.M. to 11:00 P.M. shift. On October 30, 1939, a new position for electrician was created, from 11:00 P.M. to 7:00 A.M. Electrician Roscoe Hirlinger with seniority date of 12-11-23 at the Hampton enginehouse, on furlough due to the Hampton enginehouse being closed on August, 1937, but working at Kingsland locomotive shops filling a temporary vacancy at that point, was transferred to Binghamton enginehouse to fill this new position from 11:00 P.M. to 7:00 A.M. The new position was created, was bulletined, and as no electrician shown on the Binghamton roster desired the new position Electrician Hirlinger remained on the job until he was furloughed June 11, 1940.

That just prior to October 30, 1939, Electrician Leon Brown employed on the 3:00 to 11:00 P.M. shift became ill and was required to go to the hospital. The carrier transferred Electrician Patrick J. Troy, employed at the Scranton enginehouse with seniority date of February 16, 1936, to Binghamton enginehouse to fill the temporary vacancy caused by illness of Brown on the 3:00 to 11:00 P.M. shift.

That on June 11, 1940 Electrician Brown recovered from his illness and returned to work on his regular job, 3:00 to 11:00 P.M., and Patrick Troy, who was filling the temporary vacancy of Brown was assigned to take the regular position on the 11:00 P.M. to 7:00 A.M. shift held by Hirlinger, and Hirlinger was furloughed.

**POSITION OF EMPLOYES:** That Electrician Roscoe Hirlinger was unjustly dealt with when furloughed June 11, 1940 account of the carrier assigning Electrician Patrick J. Troy, who was filling a temporary vacancy caused by the illness of Electrician Brown on the 3:00 to 11:00 P.M. shift to the regular position on the 11:00 to 7:00 shift, which was assigned to

East Binghamton under the agreement of November 1, 1935, for that would establish system seniority contrary to Rule 26. Such being the case, Hirlinger, who was the junior man at East Binghamton, was properly furloughed and the claim should be disallowed.

**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 existing rules of agreement provide for seniority status at point employed.

Electrician Troy accumulated seniority at East Binghamton from October 24, 1939, and Electrician Hirlinger likewise from October 30, 1939.

The general chairman of the craft involved was consulted prior to the employment of both Troy and Hirlinger at East Binghamton, which indicates that management was not discriminative.

The facts of record do not show any agreement or understanding between the parties other than is contained in the existing rules of agreement which protect point seniority.

Any deviation from the present rules of agreement involved in this case may be accomplished only through negotiation and understanding between the parties to the agreement.

#### AWARD

Award rendered in accordance with the aforesaid findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 13th day of March, 1941.