

Award No. 607
Docket No. 632
2-Montour-MA-'41

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 103, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)

MONTOUR RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Machinist Bernard Miller was discriminated against in being disqualified to operate boring mill.

EMPLOYEES' STATEMENT OF FACTS: March 25, 1940, bulletin was posted in the Montour Railroad shops, Coraopolis, Pa., advertising vacancy in machine shop on various machines. (Copy of same submitted as Exhibit No. 1.) Mr. Bernard Miller, machinist was the only machinist making application for same. (Copy of his bid submitted as Exhibit No. 2) Mr. Miller was assigned to the position according to Rule No. 12 of the shop craft's agreement April 1, 1940. Mr. Miller was disqualified by Mr. J. T. Harper, mechanical superintendent after working a period of five (5) days. During this period, Miller who is competent of operating all other machines, did operate some of them.

POSITION OF EMPLOYEES: Mr. Miller was not given a fair trial to qualify for the above mentioned vacancy in accordance with the provisions of Rule No. 12 of the agreement between the Montour Railroad Company and System Federation No. 103, effective June 1, 1939, which reads as follows:

Rule No. 12:

"When new jobs are created or vacancies occur in the respective crafts, the oldest employees in point of service shall, if sufficient ability is shown by trial, be given preference in filling such new jobs or any vacancies that may be desirable to them. All vacancies or new jobs created will be bulletined. Bulletins must be posted five (5) days before vacancies are filled permanently. Employees desiring to avail themselves of this rule will make application to the official in charge, and a copy of the application will be given to the Local Chairman.

"An employee exercising his seniority rights under this rule will do so without expense to the carrier; he will lose his right to the job he left; and after a fair trial he fails to qualify for the new position, he will have to take whatever position may be open in his craft."

Mr. Miller entered the employment of the Montour Railroad Company as a machinist apprentice November 25, 1929, and completed his apprenticeship August 25, 1934. During this time Miller served approximately two and one half years in the machine shop.

On account of the difficulty experienced by him in learning the machinist's trade, his apprenticeship was not completed until June 1, 1937, some six and one-half years after he started, although four years is the usual apprenticeship period. On that date he was given the full mechanic's rate of pay. During the apprenticeship, his rate of pay ranged progressively from the starting rate of 45 cents per hour to 79 cents per hour. His rate today is the standard machinist's rate of 86 cents per hour.

The complaint filed with your Board is based upon the fact that in March, 1939, Bernard Miller bid on the job of boring mill operator. He was the senior applicant and the job was awarded to him on trial although it was the judgment of the machine shop foreman that Miller was not competent to operate the boring mill. Miller was placed on the boring mill for one week beginning with April 1. The result was a miserable failure throughout the week, with but little accomplished and accompanied by a substantial spoilage of material. He was then put back to work on the floor in the erecting shop, and a written report was given to the undersigned by the mechanical superintendent on April 9 showing the detail of the week's trial on the boring mill. I supplemented this report by conversation with the shop supervisors and after consultation with the General superintendent, I expressed my judgment that Miller should not hereafter be permitted to exercise his seniority with respect to operating the boring mill because of incompetency.

This action does not in any way affect his rate of pay or the amount of his compensation and it creates no hardship for him. Every member of your Board well understands from his own railroad experience that ability to learn and the degree of competency attained in the mechanical crafts varies from low to high as between individuals, and that some individuals do not possess the aptitude to become all around skilled mechanics. Miller is in that situation.

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 waived right of appearance at hearing thereon.

The facts of record are not sufficient to show that Machinist Bernard Miller was discriminated against.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of April, 1941.