

Award No. 612

Docket No. 604

2-ACL-MA-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That P. B. Harper, dismissed assistant roundhouse foreman, Rocky Mount, North Carolina, effective April 21, 1940, is entitled to exercise seniority for employment in the machinists' classification at Pinners Point (Portsmouth), Virginia, where he last worked with the tools.

EMPLOYEES' STATEMENT OF FACTS: P. B. Harper entered the service of the Atlantic Coast Line Railroad Company at Rocky Mount, North Carolina, September 3, 1903, as storehouse laborer at the rate of 5¢ per hour.

Transferred from storehouse to machine shop on or about October 4, 1904, classed as "handyman," and assigned to drill press for about thirty days when then commencing a machinist apprenticeship completed in the month of December, 1908.

On completion of apprenticeship remained in service at Rocky Mount as machinist for about ten years or until transferred to Pinners Point, (Portsmouth) Virginia, as machinist, on or about November 16, 1918.

Worked as machinist at Pinners Point from date of transfer until November 22, 1918, when promoted to position of night roundhouse foreman, supervising mechanical repairs jointly handled through the consolidated shop terminals of the Atlantic Coast Line and Southern Railways at Pinners Point.

Promoted to position of assistant general foreman March 1, 1920. Served in such capacity until November 14, 1920 when transferred to Rocky Mount, North Carolina by the late superintendent motive power, Mr. D. M. Pearsall.

On return to Rocky Mount was assigned as gang foreman in erecting shop, later working as assistant roundhouse foreman and assistant machine shop foreman.

Transferred to Sumter, South Carolina as general foreman in the month of March 1933.

Transferred from Sumter to Florence, South Carolina in the month of August 1934 to fill position of assistant roundhouse foreman.

Transferred from Florence, South Carolina to Rocky Mount, North Carolina in September 1934 as assistant roundhouse foreman and continued in such capacity until dismissed from service effective April 21, 1940.

Mr. Harper was notified that he had been released by the relief department for service and he had no cause for not reporting for duty, and it would be necessary for him to report for service or resign. Mr. Harper declined to report for service at Rocky Mount, N. C., also he was requested to return all company property. This he refused to do.

Carrier is supported by a previous award of this Board; viz., Award No. 51, Docket No. 42.

Carrier contends that the rules in effect have not been violated, that Mr. P. B. Harper's rights as machinist were at Emerson shops, Rocky Mount, N. C., as shown by the records, and that Mr. Harper declined to protect his rights at Emerson shops, Rocky Mount, N. C., and automatically separated himself from the service of the company.

Therefore, carrier respectfully requests the National Railroad Adjustment Board to deny this claim.

Carrier reserves the right if and when it is furnished with the petition filed ex parte by the petitioners in this case which it has not seen, to make such further answer and defense as it may deem necessary and proper in relation to all allegations and claims as may have been advanced by the petitioners in such petition and which have not been answered in this its initial answer.

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 evidence of record is not sufficient to establish machinist's seniority rights for P. B. Harper at Pinners Point.

AWARD

When P. B. Harper was relieved of his supervisory duties he was entitled to machinist's rights at Rocky Mount.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 23rd day of April, 1941.