

Award No. 770

Docket No. 704

2-Wab-BM-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee R. F. Mitchell when award was rendered.

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 13, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

**WABASH RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:** That at Decatur, Illinois, on or about July 3, 1940, the carrier violated Rule 23 of the current agreement by restoring to service W. J. Newell as a boilermaker helper in preference to Boilermaker Helper Kenneth E. Grubb.

That Boilermaker Helper Kenneth E. Grubb's name be listed on the Decatur boilermaker helpers' seniority roster as of October 20, 1939.

**EMPLOYES' STATEMENT OF FACTS:** Prior to January 30, 1938, Kenneth E. Grubb was in the employ of the carrier as a machinist helper at Toledo, Ohio.

On January 30, 1938, at Toledo, Ohio, the carrier transferred or employed Kenneth E. Grubb as a boilermaker helper until May 12, 1938, when in a reduction of force he was furloughed.

The carrier used Boilermaker Helper Kenneth E. Grubb to fill a temporary vacancy at Montpelier, Ohio, from January 30, to February 18, 1939.

Effective October 20, 1939, the carrier transferred or employed Boilermaker Helper Kenneth E. Grubb as such at Decatur, Illinois.

Effective November 20, 1939, at Decatur, Illinois, the carrier transferred, or promoted or employed Laborer W. J. Newell as a boilermaker helper.

Effective February 28, 1940, in a reduction of force, Boilermaker Helpers Kenneth E. Grubb and W. J. Newell, were laid off, and in a force increase on July 3, 1940, the carrier restored to service W. J. Newell as a boilermaker helper in preference to Boilermaker Helper Kenneth E. Grubb.

Between May 12, 1938 and July 3, 1940, Boilermaker Helper Kenneth E. Grubb was not restored to service at his home point, Toledo, Ohio, or at Montpelier, Ohio.

**POSITION OF EMPLOYES:** That Kenneth E. Grubb, boilermaker helper, should have been restored to service on July 3, 1940, in preference to W. J. Newell in accordance with provisions of Rule 23:

"When it becomes necessary to reduce expenses, the hours may be reduced to forty (40) per week, before reducing the force. When

petitioner in his ex parte statement of claim is without foundation under the rules of the schedule for shop crafts, effective June 1, 1939, and the memorandum of agreement, effective April 1, 1940; therefore, the contention of the committee should be dismissed.

**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.

Employes agreed that while the parties were working on the memorandum agreement that the furloughed employes would be handled in accordance with the proposed memorandum and in view of this fact, the claim cannot be allowed.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 5th day of May, 1942.