

Award No. 895

Docket No. 854

2-PT-MA-'43

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 18, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

PORTLAND TERMINAL COMPANY

DISPUTE: CLAIM OF EMPLOYES: That under the controlling agreement and Rule 21 thereof, the date on the machinist helpers' seniority roster of James Quincannon be changed from June 24, 1941, to July 4, 1941.

EMPLOYES' STATEMENT OF FACTS: At Portland, Maine, Rigby enginehouse, Laborer James Quincannon was assigned to and did fill the position of enginehouse clerk from May 18, 1941 to July 3, 1941.

The following laborers on the dates indicated, were advanced to machinist helper positions:

| | |
|--------------------|---------------|
| Towsey, William | June 24, 1941 |
| Maxwell, Ernest | " " " |
| Hutchinson, Arthur | " " " |
| Lesniewski, Henry | " " " |
| McCann, Albert | " " " |
| Grzyb, Anthony | " " " |
| Dodge, Chester | " " " |
| Feeney, Patrick | " " " |

On July 4, 1941, James Quincannon was placed on a machinist helper's job and as such was given a seniority date of June 24, 1941, which gave him seniority rank over seven of the aforesaid machinist helpers. The committee protested the favor extended to James Quincannon, but the management did and has since declined to change his seniority date.

POSITION OF EMPLOYES: James Quincannon, laborer, was placed on a position of enginehouse clerk in the absence of the regular incumbent. At that time, it was the opinion of Quincannon, as well as the assumption of all other employes at the point, that Mr. Quincannon was permanently assigned to the clerk's position.

During that period, other laborers were advanced to the position of machinist helper.

Subsequently, one Alfred Miller was placed on the position of enginehouse clerk and Quincannon was assigned to a machinist helper's job and **given a seniority date ranking those** of the men who had been advanced to the classification of machinist helper during the period that he (Quincannon) was working as a clerk.

The seniority lists will be posted annually and copy furnished the Committee.

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which prohibits such handling and in fixing seniority date as of June 24, 1941.

This was only equitable treatment under the facts and circumstances.

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.

Without an agreement or understanding between the parties as to the employe's rights to seniority in helper's position over the laborers promoted to helpers' positions on June 24, 1941, it must be held that James Quincannon may not acquire seniority in the helpers' class until he actually began service in that class.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 3rd day of March, 1943.