

Award No. 910

Docket No. 830

2-ACL-CM-'43

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Herbert B. Rudolph when award was rendered.

PARTIES TO DISPUTE:

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

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That carrier violated Rule 406, June 3, 1942, when promoting eight (8) carmen helpers to mechanics in lieu of promoting available qualified regular and helper carmen apprentices.

That the eight (8) senior regular apprentices, named in Exhibit B be promoted to mechanics instead of the eight (8) helpers so promoted, and

That they—the eight (8) senior regular apprentices—be compensated an amount equal to the difference between what they actually earned and what they would have earned had they been promoted to mechanics, effective June 3, 1942.

EMPLOYES' STATEMENT OF FACTS: Under date of June 1, 1942, bulletin was posted in the Waycross shops naming eight (8) car repairer helpers who were to be promoted to carmen, effective 7:30 A. M., June 3, 1942. The bulletin cited Rule 406, paragraph 4, as authority for this action. See Exhibit A.

At that time, June 3, 1942, there were in the Waycross shops eight (8) regular car repairer apprentices who had served one year or more of their apprenticeship and who were eligible, under Rule 406, paragraph 2, for promotion to mechanics. See Exhibit B.

In addition to the eight (8) regular apprentices employed in the Waycross shops, there was also a number of helper apprentices there employed who had served three (3) months or more of their apprenticeship and who were, therefore, eligible for promotion to mechanics under Rule 406, paragraph 3. See Exhibit C.

POSITION OF EMPLOYES: The current agreement in effect between the Atlantic Coast Line Railroad Company and its employes of the mechanical department contains the following rule, generally referred to as shortage of mechanics rule, and reads:

Rule 406 Shortage of Employes—

When there is a shortage of mechanics in the carmen craft due to inability to employ such mechanics or the inability to develop same through the apprenticeship schedules, the force may be increased in the following manner:

At the time we made these promotions, the local chairman of the carmen assented to same and there was no protest made until June 13, 1942, when the local chairman protested to the master mechanic insisting that the apprentices should have been promoted first. As stated, these apprentices were all young boys and would not have been very suitable to be used on the riveting and heavy steel work on which we used the eight helpers we promoted.

Carrier contends there is no violation of Rule 406 reference to the order in which promotions should be made. The rule contains no definite order for promoting helpers, helper apprentices and apprentices to mechanics, contrary to what the representatives of the carmen claim. We can see no merit to the claim, and respectfully request the National Railroad Adjustment Board to dismiss the 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.

Rule 406 provides for the manner of promotion of mechanics in the carmen's craft, where there is a shortage and inability to employ regular mechanics. The manner provided by the rule is to promote: first, apprentices who have served at least one year as regular apprentices; second, helper apprentices who have served three months; third, helpers who have served two years. Claimants qualified as apprentices who had served at least one year of their apprenticeship. The carrier violated Rule 406 in promoting helpers instead of claimants.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of June, 1943.