

Award No. 1257

Docket No. 1185

2-MP-FO-'48

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke when award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. of L. (Firemen & Oilers)**

**MISSOURI PACIFIC RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** 1: That there is no authority in the current agreement for the assignment of Sub-Division (C) Laborer A. Morris to perform the work of building fires in locomotives on June 18, 1947.

2. That accordingly the Carrier be ordered to additionally compensate Sub-Division (B) Fire Builder French Sweatt in the amount of 8 hours, at the time and one-half rate for the aforesaid work performed by A. Morris.

**EMPLOYEES' STATEMENT OF FACTS:** At Kansas City, Missouri, the carrier regularly employs in the roundhouse three shifts of locomotive fire builders and laborers.

The seniority of fire builders is separate from the seniority of laborers.

The carrier assigned Laborer A. Morris to build fires from 8 A. M. to 4 P. M. on June 18, 1947.

Fire Builder French Sweatt, hereinafter referred to as the claimant, regularly employed as such on the 12 midnight to 8 A. M. shift, claimed he was entitled to be called or to pay therefor as though he had been called and used to build these locomotive fires. The carrier has declined to adjust this claim.

The agreement dated effective November 1, 1934 is controlling.

**POSITION OF EMPLOYEES:** Rules 10 and 11 of the aforesaid controlling agreement dealing with seniority of firemen and oiler employes, read in their entirety as follows:

"Rule 10—

(a) Seniority begins at the time the employe's pay starts.

(b) Rights accruing to employes under their seniority entitle them to consideration for positions in accordance with their relative length of service with the railroad.

We desire to again state that Rules 4 (e) and 21 (b), previously quoted, accord the carrier the right to temporarily transfer an employe from one subdivision to another and that such transfer has already been held to be within the provisions of the agreement by this Division in its Award No. 708.

Aside from the foregoing there is also the fact that the employes have since recognized that A. Morris, the employe used by the carrier as a fire builder on this date, had seniority in Class B dating from October 2, 1946, some nine months prior to the occurrence giving rise to this dispute. (Exhibit No. 2).

**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.

This case presents a situation wherein an employe in Class "B" group, as set out under Rule 11 (b) of the parties' agreement, laid off and was absent from his regular assignment on June 18, 1947. His assignment was from 8 A. M. to 4 P. M. The carrier used an employe from the Class "C" group of laborers to fill the temporary vacancy. The first question that presents itself by reason of the claim made is, was the temporary use of a Class "C" employe for that purpose authorized by the rules of the parties' agreement?

In Award No. 708 of this Division, which involved this same agreement, we correctly said:

"This dispute involves \* \* \* an employe in seniority Subdivision B when used temporarily to perform work in Sub-divisions A of Rule 11. This transfer was within the provisions of the agreement." See Rule 21 (b).

We think the use by the carrier of Class "C" employe to fill a temporary vacancy caused by a Class "B" employe taking a day off is authorized by the rules of the current agreement and the claim must therefore be denied.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 1st day of July, 1948.