Award No. 1545

Docket No. 1440

2-C&EI-MA-'52

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.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 20, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Machinists)

CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the Carrier was not authorized on June 22, 1949 to award Melvin P. Rick the seniority date of February 27, 1946, as a Machinist at Evansville, Indiana, in lieu of at Danville, Illinois.

2. That accordingly the Carrier be ordered to remove this employe's seniority dating of February 27, 1946 from the Machinists' Seniority Roster at Evansville, Indiana.

EMPLOYES' STATEMENT OF FACTS: The main shops of the carrier are located at Danville, Illinois, and this is the only point on the property where the facilities are adequate for teaching machinist apprentices all branches of the machinists' trade. Thus, the carrier employed Melvin P. Rick at this point as machinist apprentice on February 27, 1942, and after having served almost a year on his time, he was inducted into the armed forces on January 26, 1943. However, Mr. Rick was discharged from the armed forces about March 18, 1946 and thereupon resumed serving his apprenticeship at the point on about April 15, 1946. There Mr. Rick remained, learning the machinist trade for almost two (2) years, until January 19, 1948 when he was transferred to the roundhouse at Evansville, Indiana, to secure diesel experience, which was not then obtainable at the Danville shops. In the meanwhile, or on June 2, 1948, it became necessary to advance Mr. Rick temporarily to the position of a machinist on diesel work at Evansville and there he remained, completing his apprenticeship on March 18, 1949, but who continued in the service thereat as a machinist when subsequently the carrier made the arbitrary election to transfer Mr. Rick's automatically acquired seniority rights as a machinist at Danville to Evansville and placed him on the machinists' seniority roster at Evansville with a seniority date of February 27, 1946. This is substantiated by the attached copy of letter dated June 22, 1949, addresed to General Foreman Bormann by Mr. Bennett, superintendent of motive power, submitted herewith and identified as Exhibit A.

Every effort has been made to settle this dispute with the carrier in accordance with the memorandum of understanding effective June 16, 1941, as amended effective May 1, 1945, and the agreement effective July 15, 1949,

the seniority roster at Yard Center as a carman with seniority date of February 28, 1945, which is the date he would have completed his apprenticeship had he not been absent in military service.

It will be noted that the above case is identical in all important respects to that in issue here, and that in accord with the accepted interpretation of the rules involved the individual was given seniority date at the point where he first performed service as a mechanic after completing his apprenticeship, as of the date he would have completed his apprenticeship had he not entered military service. It will be noted that in the above examples seniority date was established in conformity with the carrier's position in the instant case; that the provisions of Rule 25 are controlling and that it is the point and date an individual first performs service as a mechanic after completing his apprenticeship that governs his seniority status as a mechanic. No protest or complaint has been made by the organization regarding seniority dates established in the above cases, which were established in exactly the same manner as in the dispute here at issue, which fact must be accepted as evidence that the organization has heretofore accepted the interpretation that the provisions of Rule 25 govern in establishing an individual's seniority status as mechanic.

The carrier submits that the protest here submitted is wholly without merit under the rules of the controlling agreement, and should, therefore, be denied.

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 machinists of System Federation No. 20 contend carrier was not authorized to award Melvin P. Rick the seniority date of February 27, 1946 on the machinists' seniority roster at Evansville, Indiana.

When Rick entered the services of the carrier at its Oaklawn Shops at Danville, Illinois, on February 27, 1942 as a machinist apprentice he did so subject to the requirements of Rule 24 of the parties' effective agreement relating to apprentices. Under these requirements if Rick's services had been continuous he would have completed his apprenticeship on February 27, 1946 and his seniority rights as a mechanic would have dated therefrom.

By reason of the Amendment to Memorandum under Rule No. 11 effective May 1, 1945 there was reserved to Rick, when he entered the armed forces of his country on January 26, 1943, this seniority date as a machinist provided that; after being released from the armed forces, he returned to carrier's services within proper time and completed the unserved portion of his apprenticeship. In other words, the provisions of the Memorandum herein referred to did not waive any of the requirements of Rule 24 but did secure to an apprentice a retroactive seniority date as a mechanic so that he would not be penalized in that respect for having served his country.

When Rick was discharged from the armed forces he returned to the services of this carrier on April 15, 1946 as a machinist apprentice in its Oaklawn Shops at Danville. On January 17, 1948 he went to carrier's Wansford Shops at Evansville, Indiana. As of the date of his going he had not completed his apprenticeship, had not become a machinist and had no rating as a machinist at Danville.

Rule 25 of the parties' effective agreement provides that seniority of employes in each classification covered by the agreement shall be confined to the point employed.

Rick completed his apprenticeship on March 18, 1949 while in service in the Wansford Shops at Evansville and thereafter became a machinist at that point. This date would normally have been the date of his seniority as a machinist but because of the Amendment to Memorandum under Rule 11 effective May 1, 1945 this date became retroactive to February 27, 1946. Carrier correctly gave him that seniority date at Evansville where he attained the status of a machinist. In fact, Rick never became a machinist while in the carrier's service at Danville and therefore could have no seniority at that point as such.

It is true that Rick thus obtained a seniority date at Evansville prior to when he started to work there but that results from the fact that the Memorandum referred to makes Rick's seniority date retroactive. Carrier having given Rick his proper seniority date under the provisions of the Memorandum and having made it effective at the proper point we find the claim made to be without merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: (Sgd.) Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June, 1952.