

Award No. 1577

Docket No. 1512

2-C&NW-SM-'52

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 12, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (SHEET METAL WORKERS)**

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the carrier improperly cancelled the seniority and property rights of Sheet Metal Worker E. Barnes when they unilaterally merged the Fremont seniority district and roster with the Norfolk seniority district and roster on the Nebraska Division, effective July 29, 1950.

2. That accordingly the carrier be ordered to:

(a) Restore the seniority districts and seniority rosters as they were on January 1, 1950.

(b) Restore Sheet Metal Worker Barnes to the Fremont district.

(c) Compensate Sheet Metal Worker Barnes for all time lost as a result of this improper merging of seniority districts and rosters, retroactive to July 29, 1950.

EMPLOYEES' STATEMENT OF FACTS: On the Nebraska Division of the Chicago and North Western Railway two seniority districts, one with headquarters at Fremont, Nebraska, and one with headquarters at Norfolk, Nebraska, were in effect, which is confirmed by the last rosters posted as such as of January 1, 1950, copy of which is submitted herewith and identified as Exhibits A and B, respectively.

On July 22, 1950, a bulletin was issued in the Fremont District abolishing the position of sheet metal worker foreman at Fremont and abolishing the Fremont seniority district, also, extending the Norfolk seniority district to include the entire Nebraska Division, effective July 29, 1950, a copy of which is submitted herewith and identified as Exhibit C. This merger of seniority districts and rosters was put in effect and confirmed by a copy of the seniority roster submitted herewith and identified as Exhibit D, posted January 1, 1951.

Sheet Metal Worker James Stuart was senior to Sheet Metal Worker Barnes, hereinafter referred to as the claimant, took his vacation and retired

would be abolished effective July 29, 1950. Such bulletin was, of course, in error because there was no abolishing of the Fremont district in fact. Mr. E. Peterson, general chairman representing sheet metal workers, was advised of this error in a letter from Mr. Stephens for the carrier dated November 28, 1950, said letter is submitted herewith and identified as carrier's Exhibit G. The seniority district was not abolished but was consolidated with the Norfolk seniority district and could not effectively be abolished by such a bulletin. All the carrier did in this instance was to abolish a position in the seniority district due to lack of necessary work to keep all traveling mechanic sheet metal workers fully employed. The employe involved, being the youngest of the two traveling mechanic sheet metal workers in seniority, was furloughed temporarily until an opening came in another division of the carrier. This abolishment did not infract the rules in any way. The carrier reiterates that it did not abolish the seniority district as stated by the claimant but rather abolished a position within a seniority district and all within the rules of the federated shop crafts' schedule.

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.

Before December 1, 1941, on the carrier's Nebraska Division there were two bridge and building supervisors, one at Fremont and the other at Norfolk. There were also two seniority districts and rosters of sheet metal foremen, traveling mechanics, and helpers coextensive with the territories under the respective B. & B. Supervisors.

On December 1, 1941, the B. & B. supervisor's position at Fremont, Nebraska, was abolished, making the maintenance work of the entire Nebraska Division under the authority of the remaining B. & B. supervisor at Norfolk, Nebraska. It was not until July 29, 1950, however, that the two seniority districts and rosters were finally consolidated.

On the last-named date the position of "Traveling Mechanic Sheet Metal Foreman" at Fremont was abolished and TMSM Worker Barnes was furloughed.

The issue in this case is whether, under the controlling agreement between the parties, the carrier had the right unilaterally to take the action set forth above. We think it did, provided that the meaning and intent of Rule 152 of the agreement (quoted in the carrier's statement of facts) were not transgressed.

Then the issue revolves around the proper interpretation of this rule, specifically of the words "immediate supervising officer." To us the parties' use of the word "officer" refers not to a working foreman of the sort involved in this case but to the B. & B. supervisor. In railroad parlance, the term "officer" has long had such a meaning. An officer is ordinarily a management man and not a working foreman who belongs to a labor organization. We think the parties intended such usage.

We do not find controlling the facts that (1) an officer of the carrier previously admitted error over having merged the seniority districts after 1941 but before 1950; or (2) that during the handling of the instant claim on the carrier's property the carrier offered a compromise settlement of the claim.

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AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 4th day of November, 1952.