

Award No. 1899
Docket No. 1739
2-PRR-URRWA,CIO-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when the award was rendered.

PARTIES TO DISPUTE:

UNITED RAILROAD WORKERS OF AMERICA, C. I. O.

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That, under the applicable Agreement, the Carrier unjustly withheld recalling EMILY BAHLER to service as a Coach Cleaner, and removed her name from the Coach Cleaners' roster, effective March 6, 1953.

2. That, accordingly, the Carrier be ordered to restore this employe to her former Coach Cleaner roster standing.

3. That EMILY BAHLER be compensated for all monies lost since March 19, 1953, the effective date of Bulletin No. 14.

4. This claim is due to the unilateral action of the Carrier assigning a junior employe to the position in question.

EMPLOYEES' STATEMENT OF FACTS: There is an agreement between the parties hereto dated July 1, 1949, and subsequent amendments, copies of which are on file with the Board and is, by reference hereto, made a part of this statement of facts.

At Pittsburgh, Pennsylvania, Pittsburgh Division, Central Region, The Pennsylvania Railroad Company, hereinafter referred to as the carrier, employs a force of coach cleaners.

EMILY BAHLER was employed as a coach cleaner at the seniority point in question, and will, hereinafter, be referred to as the claimant.

The claimant has had continuous employment relation with the carrier since September 27, 1943.

On March 6, 1953 claimant, who held rank No. 4044 on the coach cleaners' roster, was furloughed in force reduction.

A position of coach cleaner was advertised in Bulletin No. 14 and awarded to a junior employe with Roster No. 5033, effective March 19, 1953. The claimant was not recalled to this position as provided for in the controlling agreement heretofore referred to.

IV. Under the Railway Labor Act, the National Railroad Adjustment Board, Second Division, is Required to Give Effect to the Said Agreements and to Decide the Present Dispute in Accordance Therewith.

It is respectfully submitted that the National Railroad Adjustment Board, Second Division, is required by the Railway Labor Act to give effect to the said agreements referred to and discussed above, which constitute the applicable agreements between the parties, and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, First, subsection (i) confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of interpretation or application of agreements concerning rates of pay, rules or working conditions". The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim of the named claimant in this case would require the Board to disregard the agreements between the parties hereto and impose upon the carrier conditions of employment and obligations thereto not agreed upon by the parties to the applicable agreements. The Board has no jurisdiction or authority to take such action.

CONCLUSION

The carrier has shown that the named claimant is not entitled to be rehired or compensated for monies allegedly lost since her temporary employment ceased.

Therefore, the carrier respectfully submits that your Honorable Board should dismiss the claim of the employe in this matter.

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.

Claimant Emily Bahler was employed as Coach Cleaner under agreement of October 30, 1942 which in pertinent part reads:

"Females who are or who have been . . . taken into the service . . . during the present emergency and for a reasonable time thereafter for employment . . . will be considered as temporary employes. . . shall acquire and may exercise seniority . . . but shall only retain such seniority during the period of the present National Emergency. During such period the names . . . shall appear on the . . . roster and shall be designated with an (*) indicating they are females and temporary employes."

Claimant was furloughed and marked out of service on March 6, 1953 and her name removed from roster. On March 19, 1953 additional Coach Cleaner positions were established and filled by male employes who were employed subsequently. She claims right to former roster standing and reemployment to service.

On all rosters claimant was shown by an asterisk and note as a temporary female employe in accordance with the requirement of the Agreement of October 30, 1942.

The Agreement of October 30, 1942 does not appear to have been terminated or modified as to the Coach Cleaners. The Agreement of October 11, 1946 did not apply to them as they were not included nor then represented by the C.I.O. organization which negotiated that agreement for the classes it represented.

By the Agreement of September 19, 1947 portions of said agreement of October 11, 1946 were made applicable to this craft but nothing therein affects or refers to said agreement of October 30, 1942, under which claimant was employed and held her rights. Nor can we find that the agreement of July 1, 1949 by implication either terminated or indicated prior termination of that agreement.

Thereunder claimant was a temporary employe and held her seniority only during the emergency. The emergency was that of manpower shortage and the fact that carrier was able to employ male workers for these positions indicates the termination of the emergency as to those positions. The fact that claimant's name continued on the roster from year to year as a temporary employe without protest evidences the continuance of the agreement therefore and we think Award 1827 of this Division, involving the same parties, determines the issue involved.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of March, 1955.