

Award No. 3006
Docket No. 2888
2-P&LE-TWUOA-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

**TRANSPORT WORKERS UNION OF AMERICA,
AFL-CIO (Railroad Division)**

THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY

THE LAKE ERIE AND EASTERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

(A) Mr. J. P. Ambrose held a position that worked from 4:00 P.M. to 12:00 P.M. on January 7, 1957. Mr. Ambrose worked this job but at the close of his tour of duty this position was abolished. He then bumped Mr. E. T. Shallenberger who worked a position 12:00 P.M. to 8:00 A.M. Mr. Ambrose was not paid time and one-half for his change of positions. This is a violation of Rule 7 of our present agreement.

(B) Mr. E. T. Shallenberger held a position that worked from 12:00 P.M. to 8:00 A.M. on January 7, 1957. Mr. Shallenberger worked this job but at the close of his tour of duty he was told he was bumped. He then bumped a position that works 8:00 A.M. to 4:00 P.M. Mr. Shallenberger was not paid time and one-half for his change of positions. This is a violation of Rule 7 of our present agreement.

EMPLOYEES' STATEMENT OF FACTS: That Mr. J. P. Ambrose and Mr. E. T. Shallenberger are employes of the carrier and held positions as car inspectors as stated in their claims.

That (1), Mr. Ambrose's job had been abolished and he bumped Mr. Shallenberger and (2) that Mr. Shallenberger then made his bump.

That there is only one rule in the agreement as to change of shifts and that it is Rule 7.

way qualified as to the act being voluntary or involuntary. In view thereof we find it expressly covers the situation of the claimants. Therefore we find this claim to be without merit."

CONCLUSION

The carrier has conclusively shown that the change of shifts for which the claimants are requesting payment at the time and one-half rate was necessitated by the actions of the claimants themselves. Having the opportunity and the right by seniority to displace on assignments on the same trick, they nevertheless elected to displace on assignments working on different tricks, thus requiring the shift change.

Rule 7, relied upon by the employees in this case, does not support their contention but conversely supports the position taken by the carrier.

The carrier respectfully submits that the claims of J. P. Ambrose and E. T. Shallenberger are without merit and should 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 employees 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.

On January 7, 1957, carrier abolished the job then held by Claimant Ambrose which he had been working on second trick. There were two men junior in seniority to him, working second trick. Ambrose elected to bump on the third trick job held by Claimant Shallenberger who thereupon bumped onto a relief assignment which worked three days a week on first trick and two days on second trick. However, there was a relief assignment of four days a week on third trick and one day on second trick onto which Shallenberger could have bumped.

From the facts shown, we conclude that Claimant Ambrose was not forced onto the third trick. He was not "changed from one shift to another" if he elected to make the switch and not stay on the second trick as was possible.

Claimant Shallenberger is in different circumstances. He had no one junior to himself on a full time assignment on the third trick so he was forced to change "from one shift to another".

AWARD

Claim (A) denied.

Claim (B) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 10th day of November, 1958.