

**Award No. 3210
Docket No. 3031
2-P&LE-TWUOA-'59**

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**TRANSPORT WORKERS UNION OF AMERICA
RAILROAD DIVISION**

PITTSBURGH AND LAKE ERIE RAILROAD COMPANY

LAKE ERIE AND EASTERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

On June 28, 1957, R. Pastino's job was abolished. He wanted to bump an employe in the Fabricating Shop and was told that he could not do so. Rule 40, paragraph (f) is being violated.

The Organization would like to have this situation corrected at once and allow R. Pastino to bump the junior employe.

The Carrier under Rule 44 has no right to create any job for any employe unless so agreed to by the Organization.

EMPLOYEES' STATEMENT OF FACTS: That R. Pastino's job had been abolished by the carrier.

That R. Pastino was not allowed to bump an employe in the fabricating shop when he asked for this bump.

That Rule 40, paragraph (f) was violated.

That when the committee met with the carrier to discuss this case verbally, the carrier stated to the committee that the employe who R. Pastino wanted to bump could not be bumped as per Rule 44 of the agreement. That if the carrier's position is correct, Rule 44 of the agreement was violated.

That this case arose at McKees Rocks, Pa. and is known as Case M-154.

seniority and none elected to displace him. To sustain this "Question" would penalize incapacitated members of the very organization by whom it was submitted and nullify Rule 44. Carrier earnestly requests that it 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.

Parties to said dispute were given due notice of hearing thereon.

On June 27, 1957, Claimant Pastino had been working at the car shop at McKees Rocks under a bid assignment which included in its duties some work grinding welds. On June 28, grinding was discontinued but Pastino was continued on miscellaneous carmen's work. He requested assignment to the punch and shear work being done by Mike Hryniewich for the preceding six years.

The docket contains no bulletin describing either Pastino's assignment or that of Hryniewich. Hence, we cannot determine whether Pastino's job was abolished or whether the job held by Hryniewich was in fact a different assignment from the one on which Pastino had been working. If the carrier has only changed the details of Pastino's job and unless it is shown that his job has been abolished his claim must be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1959.