

Award No. 3716

Docket No. 3320

2-LI-F&O-'61

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:

**SYSTEM FEDERATION NO. 156, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Firemen & Oilers)**

THE LONG ISLAND RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That in accordance with the stipulations of the current agreement, the Carrier improperly transferred Hattie Stewart and L. Jefferson at Morris Park Shops, Richmond Hill, N. Y.

2. That accordingly the Carrier be ordered to:

(a) Reassign Hattie Stewart and L. Jefferson to their former positions comprising, cleaning locomotive cabs, washing locomotive cab windows and all other required cleaning in locomotive cabs.

(b) Desist from transferring and exchanging assignments and positions without justifiable cause.

EMPLOYES' STATEMENT OF FACTS: Leatrice L. Jefferson and Hattie L. Stewart, (hereinafter referred to as claimants) were employed by the Long Island Railroad (hereinafter referred to as the carrier) on March 20, 1943 and July 20, 1943, respectively. The claimants' duties up to early 1950 were wiping and cleaning engines. Early in 1950 both claimants, due to a force reduction, were obligated to exercise their seniority, displacing junior employees whose duties were that of cleaning work in cabs of locomotives. The claimants held these assignments until July 27, 1957 when Foreman Jack Boyd ordered them off the cabs and assigned junior employees to such work and at the same time assigning the claimants to the duties formerly performed on the assignments held by the junior employees consisting of washing locomotives.

The foreman's action resulted in forcing two senior employees changing assignments with two junior employees, without any exercise of seniority.

efficient operation, to change from time to time the duties of any assigned laborer. This does not require any conference or agreement with the organization, nor does it, as previously stated, violate or conflict with the scope rule or any other rule in the agreement.

The claim here is a general protest: It is based on an alleged impropriety surrounding certain rearranging that occurred in the carrier's working schedule. It is alleged that the rearranging violated the rules of the agreement. Yet there is not a single showing of any alleged violation. The rearranging of certain duties is entirely harmonious with the rules of the working contract.

It has long been established by this Board, and other Divisions of the National Railroad Adjustment Board, that the assignment of employes to various duties, and the rearranging and utilization of existing forces is solely a managerial prerogative.

It is entirely evident from all that has herein been presented that the claimants have not been unjustly dealt with nor injured in any manner whatsoever. It has been shown that the work which claimants were required to perform subsequent to July 22, 1957, is indisputably work covered by their scope rule and properly required of them as part of the duties of their assigned labor positions.

Inasmuch as it has not been shown: (1) that the changed conditions are clearly prohibited by some rule of the agreement, or (2) that carrier in making these changes effected a unilateral change in working conditions to the end that employes' seniority or other contractual rights were adversely affected, the claim 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 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 waived right of appearance at hearing thereon.

For some seven years claimants were assigned to the cleaning of the interior of the cabs of diesel locomotives. Even though these jobs may have been advertised as "Assigned Laborers Duties," carrier had recognized such work of cleaning the interior of cabs as work belonging to these positions by engaging claimants continuously in that work. We do not hold that they might not be used for additional services as common laborers, if their hours of duty permitted, but they might not be removed arbitrarily from such established regular work and assigned to other work in its stead.

Rule 18 of the agreement provides:

"In the assignment of employes to positions covered by this agreement, qualifications being sufficient, seniority shall govern."

If all common labor assignments could properly be advertised as "Assigned Laborers Duties" and the incumbents thereby be required to perform any

type of common labor as directed, without priority, Rule 18 would be nullified as applied to that group of employees.

AWARD

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION**

**ATTEST: Harry J. Sassaman
Executive Secretary**

Dated at Chicago, Illinois, this 29th day of March 1961.

CARRIER MEMBERS' DISSENT TO AWARD NO. 3716

From time immemorial all common laborers such as are involved in the instant dispute, have been assigned to laborer's work as required by the carrier within the scope of the agreement rules.

Rule 18, upon which the majority base their award, was not nullified as the employees involved were continued in service as common laborers on positions covered by the agreement in accordance with their seniority.

There is no basis for a sustained award and we therefore dissent.

H. K. Hagerman

David H. Hicks

Paul R. Humphreys

William B. Jones

T. F. Strunck