

Award No. 4512

Docket No. 4361

2-IT-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 154, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

ILLINOIS TERMINAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That Carman Apprentice W. F. Glover was denied his rights under the effective agreement when forces were restored and he was by-passed in favor of a junior carman apprentice.

2. That accordingly Mr. Glover be compensated in the amount of eight (8) hours at the straight time rate for each day, Monday through Friday, beginning February 1, 1962, and continuing through March 19, 1962.

EMPLOYEES' STATEMENT OF FACTS: W. F. Glover, hereinafter referred to as the claimant, having the required two years service as carman helper to qualify for helper apprentice, was transferred to that status by the Illinois Terminal Railroad Company, hereinafter referred to as the carrier. He was indentured and placed on the roster as of February 9, 1959 in Seniority District No. 3. He forfeited his seniority as a carman helper as of that date.

On date of November 9, 1959, W. E. Knight, having no previous service as a carman helper, was hired and indentured as a regular carman apprentice in seniority district No. 3. Both he and the claimant were furloughed on the same date in July 1960.

When the carrier decided to restore a carman apprentice effective February 1, 1962, W. E. Knight was recalled in preference to the claimant. After claim was filed on behalf of the Claimant, W. E. Knight was furloughed effective at the close of work March 19, 1962.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company, with the result he has declined to adjust it.

The agreement effective September 1, 1949, as subsequently amended, is controlling.

date of November 9, 1959, worked most of 1961 being furloughed December 5, 1961 and was recalled to service February 1, 1962 instead of helper apprentice W. F. Glover resulting in the above claim.

CARRIER'S POSITION: Regular apprentices and helper apprentices are, and always have been, considered two different classifications, different rates of pay and different periods of service required to complete training. Helper apprentices and regular apprentices accumulate seniority under two classifications and the seniority is posted on different rosters for the various crafts. Effective February 1, 1962, carrier found it necessary to recall an apprentice carman and as Knight was the senior regular apprentice, he was recalled under that classification. What the organization is trying to do is consolidate seniority rosters for the benefit of one employe. It will be noted that regular apprentice Knight worked most of 1961 whereas helper apprentice Glover performed no service in 1961. The organization made no issue of the fact that Knight worked most of 1961 while Glover performed no service, yet when Knight was again recalled to service February 1, 1962, filed claim in behalf of Glover.

The organization base their claim on paragraph 3 of Rule 27 of the current agreement which reads as follows:

"In the restoration of forces, employees will be restored to service in accordance with their seniority if available within a reasonable time and shall be returned to their former positions if possible. The local committee will be furnished with a list of employees to be restored to service."

We feel that we complied with the 3rd paragraph of rule 27 because Knight was the senior available regular apprentice, claimant Glover being carried on a different roster as a helper apprentice.

There is no basis to this claim and carrier respectfully asks that your board deny this claim.

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.

Claimant Glover was indentured and placed on the roster as a helper apprentice of Carrier as of February 9, 1959, in Seniority District No. 3.

W. E. Knight was indentured and placed on the roster as a regular carman apprentice on November 9, 1959, in Seniority District No. 3.

Both men were furloughed on the same date in July, 1960.

In a restoration of forces, effective February 1, 1962, W. E. Knight was recalled as a carman apprentice. Claimant contends that he was senior to Knight and should have been recalled rather than Knight.

It is Carrier's contention that regular apprentices and helper apprentices are two different classifications and Carrier points to Employes' Ex. "C" attached to the Employes' rebuttal as indicative of the fact that "Carman Helper Apprentice" and "Carmen Apprentice" are two separate classifications on the seniority roster in the Car Department.

Carrier maintains that since Knight was the senior (and only) regular apprentice on the seniority roster then it was proper to recall him. Claimant was the senior (and only) Carman helper apprentice on the seniority roster in the Car Department.

The Organization maintains that both helper apprentices and regular apprentices are properly classified as Carmen apprentices and should be dealt with accordingly.

We have examined the Rules pertaining to apprentices, both regular and helper, together with their rates of pay and training periods and type of work performed and conclude that there is no such distinction in their positions that would call for a separate classification of the two for the purposes of seniority.

Unfortunately, here we find a separate classification did physically appear on the roster, and because of that fact we refuse to impute any improper motive to the Carrier in recalling Knight when Claimant was in fact senior to him, and for this reason we make no monetary award to Claimant.

AWARD

Claim 1: Sustained.

Claim 2: Denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of May 1964.