



Award No. 5303

Docket No. 5081

2-CB&Q-CM-'67

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Harold W. Weston when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYES
DEPARTMENT, AFL-CIO (Carmen)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Chicago, Burlington & Quincy Railroad Company improperly placed former Locomotive Painter C. B. Easley, Hannibal, Missouri, on the carmen's seniority roster, December 1, 1964.

2. That C. B. Easley's name be removed from the carmen mechanics seniority roster at said point until he qualifies under Rule 74.

EMPLOYEES' STATEMENT OF FACTS: On December 30, 1935 C. B. Easley was first employed as a locomotive painter at the Hannibal, Missouri roundhouse. His name was placed on the helper's seniority roster and painters roster with a date of December 30, 1935, and remained on said seniority rosters until December 1, 1964 when the Chicago, Burlington & Quincy Railroad Company, hereinafter referred to as the Carrier, arbitrarily transferred C. B. Easley to a carman mechanic with a carman seniority date as of the first day worked as such, December 1, 1964, even though he has had no previous experience working as a carman, his experience being solely confined to locomotive painter.

The placement of C. B. Easley's name on the carmen's seniority roster without first qualifying under Rule 74 has been protested along with our request that his name be removed from said carmen's seniority roster up to and including the highest officer so designated by the carrier, all of whom has declined to adjust same.

The agreement effective October 1, 1953, as subsequently amended is controlling.

POSITION OF EMPLOYEES': It is submitted that within the meaning of Rule 74, reading as follows:

"Any man who has served an apprenticeship or who has had four (4) years' practical experience at carmen's work, and who with the aid

In handling this case on the property the General Chairman cited Second Division Awards 3375, 3376, 1055, 1146, 1519, 3410, 3965, 4085, 4116, 4312 and 4679. These cases hold that an employee on one subdivision of a seniority roster cannot perform work belonging to another seniority subdivision. Award 4312 between the Carmen and the CB&Q is such a case, holding that it was improper to assign work "belonging" to carmen on a coach builders' seniority roster to carmen on the cabinet makers' roster.

However, such cases miss the entire point of this dispute. We did not assign car inspectors' work to Carman Easley prior to December 1, 1964, when he properly obtained seniority on the carmen's roster at Hannibal. In other words, if Easley's seniority date as a carman of December 1, 1964 is proper, there can be no error in assigning him to work as a car inspector on that date.

In conclusion, the Carrier reasserts its defense to this claim as follows:

1. Almost 30 years of journeyman painter experience possessed by Mr. Easley fulfilled the requirements of Qualification Rule No. 74. He did not have to qualify again as a carman, since painting is carmen's work.

2. The past practices on the property, particularly with respect to Messrs. LeRoy Lance and L. A. Luedtke, show that qualification in each separate subdivision has not been required.

3. The Awards of this Board have permitted experience in outside industry to satisfy qualification rules. Obviously, Mr. Easley's experience in the carmen trade on this Carrier met all the requirements of Rule 74.

4. In Second Division Award 314 the Organization took the identical position that the Carrier takes in this case, that a painter who transfers over to carman obtains seniority as a carman as of the first day worked. The claim must be denied in its entirety.

All data herein and herewith submitted have been previously submitted to the Organization.

Oral hearing is waived.

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.

C. B. Easley, an employe with about forty years' service, worked as a painter from 1935 to December 1, 1964. He is listed with a seniority date of

December 30, 1935, on both the painters' seniority roster and the carmen helpers' roster at Hannibal, Missouri.

In October 1964, since painting work was diminishing rapidly at Hannibal, Carrier proposed to the Organization that the painters' seniority roster be consolidated with the Carmen's seniority roster and that Easley, who was the only employe listed at the time on the painters' roster, be given a carman's seniority date of December 30, 1935. The Organization rejected the proposal.

On November 30, 1964, the only remaining painter position at Hannibal was abolished and Easley was laid off. On the following day, he was employed as a car inspector and granted by Carrier a seniority date of December 1, 1964, on the Carmen's roster.

The controlling rules are 14(e), 15(a), 74 and 75.

Rule 14(e) provides in pertinent part that seniority of employes "shall begin at the time their pay starts in the class in which employed and shall be confined to the craft, class and seniority point at which employed."

Rule 15(a) establishes a separate seniority roster for each of the following Carman subdivision: Patternmakers, Upholsterers, Painters, Other Carmen, Carmen Helpers, Carmen Apprentices and Coach Cleaners.

Rule 74 provides that "Any man who has served an apprenticeship or who has had four (4) years' practical experience at Carmen's work, and who with the aid of tools, with or without drawings, can lay out, build or perform the work of his craft or occupation in a mechanical manner, shall constitute a Carman."

Rule 75 prescribes that "Carmen's work shall consist of * * * painting, varnishing, surfacing, decorating, lettering, cutting of stencils and removing paint" as well as other specified duties.

Carrier would have been in error to have assigned Easley a seniority date of December 30, 1935, as it originally had planned to do, since Rule 15(a) sets up separate seniority lists for painters and other Carmen and he could not qualify for the "Other Carmen" roster until he first drew pay in that class rather than as a painter. Accordingly, Easley, despite his long service as a painter, could not validly be given a seniority date on the "Other Carmen" list that was prior to December 1, 1964, the day he first drew pay in the latter capacity.

Rule 74, emphasized by Petitioner, does not require that an employe be experienced in any particular phase of Carmen's work. It is enough under Rule 74 if he has had four years' experience as a Carman. "Painting, varnishing, surfacing, decorating, lettering" and the like, duties in which Easley had about forty years' experience, are specifically referred to as Carman's work by Rule 75. Easley's work experience therefore well satisfies the requirements of Rules 74 and 75 and Carrier was obligated to give him a seniority date of December 1, 1964, on the "Other Carmen" roster. A contrary result could be reached only by adding qualifications to Rules 75 and 15(a) that have not been provided for by the parties.

In the light of these considerations, and since Easley was assigned the December 1, 1964, seniority date, the claim must be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 24th day of October, 1967.