

The Second Division consisted of the regular members and in addition Referee Abraham Weiss when award was rendered.

Parties to Dispute: (System Federation No. 42, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the Seaboard Coast Line Railroad Company violated terms of the current agreement when they granted Mr. R. L. Williams a Carmen's seniority date on the Lakeland, Florida seniority roster.
2. That the Seaboard Coast Line Railroad Company be ordered to remove his name from the Carmen's roster at Lakeland, Florida.

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.

The claim before us is that Carrier violated Rules 15, 99, and Appendix F in granting Mr. R. L. Williams Carmen's seniority at Lakeland, Fla., without Williams having served the requisite four years (or 8320 hours) to acquire seniority as mechanic. The claim is that Mr. Williams be removed from the Carmen's seniority roster.

Rule 15 is captioned "SENIORITY AND FILLING NEW JOBS AND VACANCIES". Rule 99, CARMEN'S SPECIAL RULES, provides that "Any man who has served an apprenticeship or who has had four (4) years' practical experience at carmen's work, ... shall constitute a carman". Appendix F is a memorandum of agreement between Carrier and the Carmen (and other crafts) for upgrading regular apprentices, helper apprentices, and helpers to mechanics' positions "for the purpose of relieving current manpower shortages".

Williams' employment history, insofar as can be ascertained from the record before us, is as follows:

September 16, 1964 - Employed as trucker at Fort Meyers, Fla., under Clerks' Agreement.

December 2, 1969 - Employed as new employee at Lakeland, Fla., as Carman Helper, pursuant to request for transfer September 11, 1969.

November 27, 1972 - Transferred to Sanford, Fla., as Carman Helper, at his own request.

December 13, 1972 - Promoted to Mechanic under Appendix "F" (Promotional Rule).

- Furloughed at Sanford, Fla. as Helper promoted to Mechanic, with 6162.3 hours credited service.

- Relieved vacation vacancy on a Carman's position at Palatka, Fla. for two weeks, resulting in 6242.3 hours' credited service.

June 9, 1977 - Employed as Mechanic at Lakeland, Fla. with seniority date of June 6, 1977.

The Organization filed a protest July 11, 1977 alleging that Mr. Williams was a helper at Lakeland when he transferred to Sanford on November 27, 1972 and that at the time he was granted Mechanic seniority at Lakeland in June 1977 he had worked only 36 months instead of four years or eight periods of 130 eight-hour days.

Carrier's position is that Williams was a Helper Apprentice who was promoted under the provisions of Appendix "F"; that his name was inadvertently listed on Carman Helper rosters. Carrier adds that since Williams was employed December 2, 1969 as a Carman Helper and then transferred to Helper Apprentice on November 27, 1972, he had over 4 years' practical experience at Carman's work by April 29, 1977; and was qualified to be promoted to Carman.

The Organization cites Rule 47 - HELPER APPRENTICES which provides that helper apprentices lose their seniority as helpers after 65 days of service as such if retained as helper apprentices. Section b paragraph 2 of Rule 47 reads:

"When assigned as helper apprentices, if, within the first half of the first period (sixty-five (65) days), during which time they will retain their helpers' seniority, they do not show aptitude to learn the trade, they will not be retained as helper apprentices."

The Organization interprets this rule to mean that helpers assigned as Helper Apprentices retain helper seniority for 65 days; that after working as a Helper Apprentice for 65 days, Helper Apprentices are removed from the Helper roster; and that the only seniority such individuals have until they complete apprentice training is helper apprentice seniority. Williams, the Organization insists, never had any apprentice seniority.

The Organization considers Williams as a helper, who was temporarily promoted and, under Fifth (d) of Appendix "F" was allowed to retain and accumulate his Helper's seniority while working as a promoted helper.

The Organization submitted a copy of the 1973 roster for Helpers at Sanford which includes Williams with a seniority date of November 27, 1972, and Williams' name on the 1973 list of promoted men, and on the 1974, 1975, 1976 and 1977 Helper seniority lists. The Organization also submitted the Apprentice seniority lists for 1973 to 1977, inclusive, which do not include Williams' name. Hence, it concludes, Williams maintained Helpers' seniority throughout the entire period which was not possible if had been a Helper's Apprentice.

The record also includes a letter from Carrier's top authorized official to the Carman's General Chairman reviewing Williams' service record and stating that Williams' "position was abolished at Lakeland and he was transferred to Sanford as Carman Helper ...".

On March 6, 1977, the Organization's Local Chairman wrote to Mr. F. A. Gray, Master Mechanic, and referred to Williams as a "Carman Helper Apprentice". (The Organization, in its Ex Parte Submission, characterizes this reference to Williams as a helper apprentice as a mistake.)

Mr. Gray's response on March 10, 1977 corrected the Local Chairman's designation of Williams as a Carman Helper Apprentice stating: "Mr. Williams is a Carman Helper and on the Carman Helper's roster furloughed".

After the Organization filed a protest on July 11, 1977, Mr. Gray responded on August 3, 1977:

"... This man was transferred to Sanford, immediately established as a Helper Apprentice and set up under Appendix F to Carman's position. Therefore, Rule 47 (HELPER APPRENTICES) applies and it was only necessary that he work six periods as a Helper Apprentice, whether Helper Apprentice actually or upgraded, to establish seniority."

In a subsequent letter from Mr. Gray, dated September 8, 1977, Mr. Gray acknowledged that his previous letter of March 10, 1977 was in error, and that Williams was a Carman Apprentice while working at Sanford and that the Local Chairman at Sanford accepted such status.

For five consecutive years, Williams was listed as a Helper on the Carman's seniority roster, not as a Helper Apprentice. Under the applicable rules, Williams did not qualify as a Helper Apprentice, not having served for two years as a Helper Apprentice at Sanford, as required.

The only evidence presented by Carrier in its defense was a denial that Mr. Gray, the Master Mechanic, was in error when he referred to Williams as a Helper and an evaluation sheet listing Williams as an apprentice. We do not consider such evidence as probative in view of the fact that Williams was carried on the seniority roster as a Helper for five consecutive years and he did not, during the same period, show up on the Apprentice roster.

On March 10, 1977, the Master Mechanic wrote the Organization that Mr. Williams was a Carmen Helper on the Carmen Helper's roster. After the Organization filed its protest, the Master Mechanic maintained that Williams worked as a Helper Apprentice at Sanford.

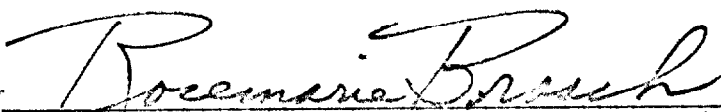
We conclude that Carrier was in error when it placed Williams on the Mechanics' roster inasmuch as the evidence supports the finding that he was a Helper rather than Apprentice, and, accordingly, that he lacked the requisite service to qualify as a Mechanic under the applicable rules relating to upgrading from Helper to Mechanic status. We will sustain the claim.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of September, 1979.